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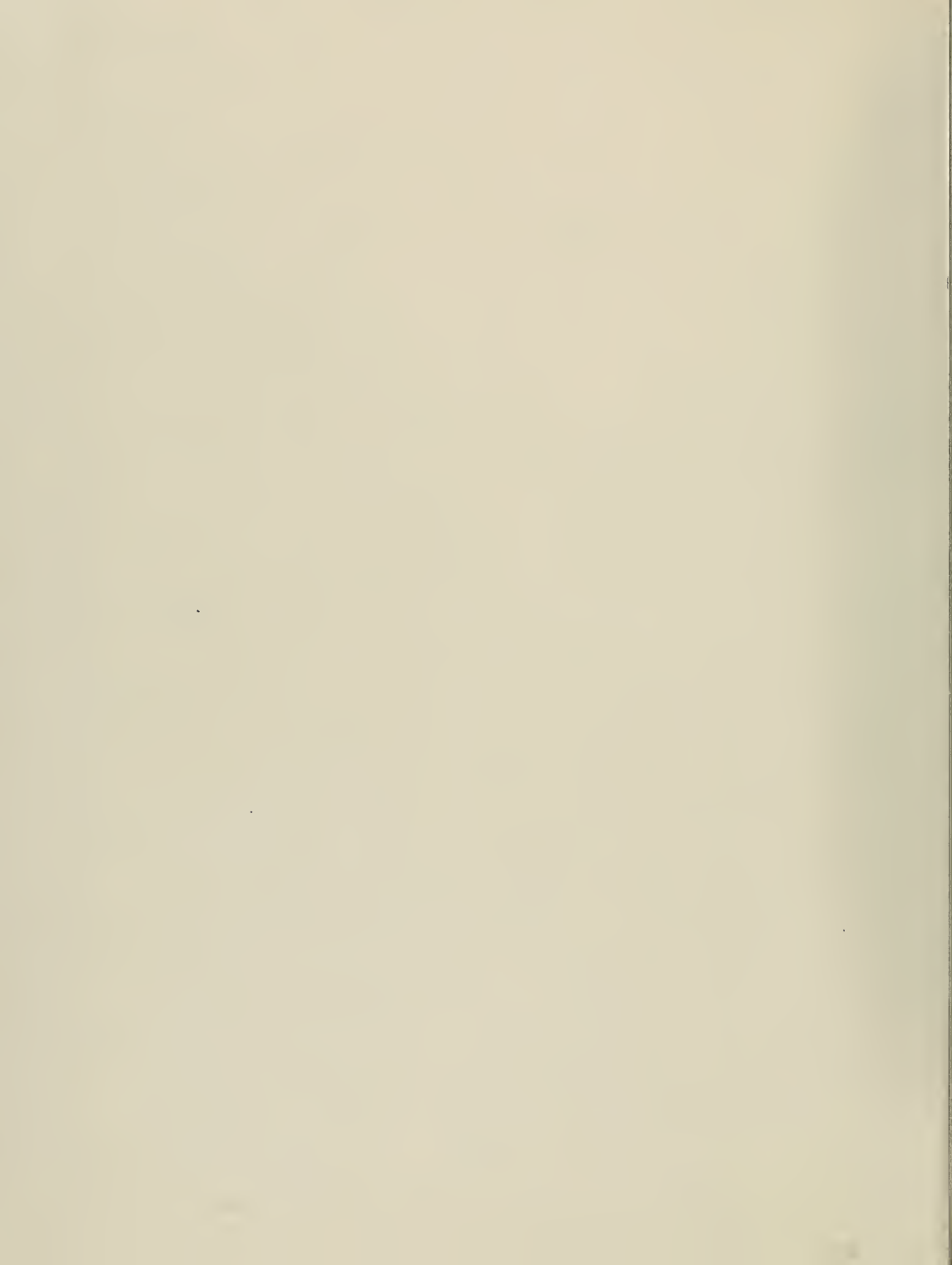
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**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
January 4, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

JAN - 3 2005

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01-03-05P03:19 RCVD

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1321 Montgomery #A AL040120
(rescheduled from 11/23/04)

The landlord appeals the remand decision granting rent reductions due to the presence of mold in the unit.

B. 28 Fuente Ave. AT040135
(cont. from 11/23/04)

One tenant appeals the decision certifying the costs of a repiping/irrigation project.

C. 101 Broderick #207 AL040156

The landlord appeals the remand decision granting a claim of tenant hardship.

D. 235 O'Farrell St. #311 AL040153

The landlord appeals the remand decision granting a claim of decreased housing services.



E. 2124 Hyde St. #3

AT040152

The tenants in one unit appeal the decision certifying capital improvement costs.

F. 1384 – 8th Ave.

AT040154

The tenant appeals the decision denying a claim of decreased housing services, finding that the landlord did not fail to consent to a replacement roommate.

G. 901 Balboa St.

AT040155

The tenant appeals the decision denying a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupants in a Unit

X. Calendar Items

XI. Adjournment



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, January 4, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

DOCUMENTS DEPT

JAN 28 2005

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I. Call to Order

Vice-President Marshall called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Hurley; Marshall;
Mosbrucker; Mosser.
Commissioners not Present: Henderson; Wasserman.
Staff Present: Lee; Wolf.

Commissioner Murphy arrived at the meeting at 6:12 p.m.; Commissioner Justman appeared on the record at 6:15 p.m. and went off the record at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 8, 2004.
(Becker/Gruber: 5-0)

MSC: To approve the Minutes of December 14, 2004.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. Landlord Sue Cauthen of 1321 Montgomery #A (AL040120) expressed her belief that the amount granted the tenant is excessive. Ms. Cauthen said that she personally cleaned the mold from the unit 8 months before the tenant filed the petition. She admitted to not fixing the leak in the unit as promptly, because she is "low-income" and the repair was expensive. Ms. Cauthen feels that \$200 per month is unwarranted because it didn't rain every month, and that a total reduction in the amount of \$400 would be "more fair."

B. Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), told the Board that PRO is the oldest continuous tenants' organization in San Francisco, having been founded in 1974. Mr. Pender informed the Board that the Metropolitan Life Insurance Co. was the first landlord at Parkmerced, and that the GI bill provided money for veterans' housing. Mr. Pender moved in to Parkmerced in 1969. The current landlord filed their first petition in January of 2000.

V. Consideration of Appeals

A. 1321 Montgomery #A

AL040120

(rescheduled from 11/23/04)

The landlord's appeal was filed twenty-five days late because the landlord had been hospitalized twice during the previous five-week period.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Becker: 4-0)

The tenant's petition alleging decreased housing services due to a leaking window and moldy walls was granted and the landlord was found liable to the tenant in the amount of \$1,400.00. The landlord failed to appear at the original hearing due to a calendaring mistake. Her appeal was accepted and remanded for another hearing. The Decision on Remand upheld the original decision. The landlord appeals the remand decision, arguing that: the tenants failed to notify the landlord that mold had recurred after amelioration efforts in February, 2003; photographs were presented which showed that there wasn't mold in the unit in October, 2003; a DBI Notice of Violation issued in August of 2003 did not cite the landlord for the presence of mold; the condition did not rise to the level of a substantial decrease in housing services; there was no impact on the tenant between April and August 2003; the amount granted is excessive; and the tenant had a retaliatory motive.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to reduce the amount of the rent reduction granted from \$1,400.00 to \$1,000.00.
(Becker/Gruber: 5-0)

B. 28 Fuente Ave.

AT040135

(cont. from 11/23/04)

The landlord's petition for certification of the costs of a repiping/irrigation project was granted, resulting in a monthly passthrough in the amount of \$63.70 to the tenants in 48 of 66 units. The tenant at 28 Fuente Ave. appeals the decision,

asserting that: the cost of the property should have reflected the cost of improvements that needed to be made; and tenants should not have to pay for the previous landlord's deferred maintenance. This appeal was improperly thought to have been mooted pursuant to the Board's motion on the joint merit appeal of six other tenants at the property at the November 23, 2004 meeting.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Murphy: 5-0)

MSC: To deny the appeal. (Justman/Gruber: 4-1; Mosbrucker dissenting)

C. 101 Broderick #207

AL040156

The landlord's appeal was filed two days late without a good cause reason being provided for the late filing.

MSC: To find good cause for the late filing of the appeal.
(Becker/Justman: 5-0)

The landlord's petition for certification of capital improvement costs was granted, in part. One tenant appealed the decision on the grounds of financial hardship. The tenant's financial hardship claim was granted, and sufficient hardship was found to warrant deferral of the passthrough for a period of one year. The landlord appeals the remand decision, claiming that the tenant did not account for income from tips; the tenant has no reason not to be gainfully employed; and the tenant has always asked to pay additional rent for a garage.

MSC: To deny the appeal. (Becker/Justman: 5-0)

D. 235 O'Farrell #311

AL040153

The tenant's petition alleging decreased housing services was granted, in part. The tenant's allegation that the size of his new room constituted a reduction in services was, however, denied. This issue was accepted on appeal and remanded: in the Decision on Remand, the Administrative Law Judge found that the reduced size of the new room warranted a rent reduction in the amount of \$30.00 per month for eighty-four months. The landlord appeals the remand decision, arguing that: the Statute of Limitations on such claims is four years; the equitable doctrine of laches should bar the claim, since the tenant unreasonably delayed in bringing it; and no extraordinary circumstances exist to warrant the tenant's recovery for more than one year prior to the filing of the petition.

MSC: To recuse Commissioner Mosbrucker from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to change the commencement date for the rent reduction for the smaller room size to March 5, 2002. (Marshall/Becker: 5-0)

E. 2124 Hyde St. #3

AT040152

The landlord's petition for certification of the costs of the installation of electric heaters in six units was granted. The tenants in one unit appeal, asserting that: they should not have to pay for the cost of a 2000 watt third heater in their unit, since it was unnecessary.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to omit the cost of the third heater in the tenants' unit from the certified passthrough. (Marshall/Becker: 5-0)

F. 1384 – 8th Ave.

AT040154

The tenant filed a petition alleging decreased housing services arising out of the landlord's alleged refusal to allow the tenant to have replacement roommates. The petition was denied because the Administrative Law Judge found that a good faith but improper rent increase on the part of the landlord did not constitute refusal for replacement roommates under Rules Section 6.15B. The tenant appeals, asserting that: there are factual errors in the decision; request for a replacement roommate was made by the tenant in accordance with the requirements of Rules Section 6.15B; and her inability to fill one of the vacant rooms was the direct result of the landlord's refusal to rescind the unlawful rent increase.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

G. 901 Balboa St.

AT040155

The tenant's petition alleging decreased housing services due to the division of utility bills between units in the building was denied because the Administrative Law Judge found the terms of the lease controlling. The tenant appeals, claiming that the decision is unfair because each unit should have its own separate electric and gas meter.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

VI. Communications

The Commissioners received a new Roster of Commissioners, a copy of the recently amended Hotel Visitor Policy and copies of e-mails regarding recently enacted legislation passed by the Board of Supervisors imposing restrictions on condominium conversion in two-unit buildings where evictions of senior or disabled tenants have occurred and pending amendments increasing Ellis relocation payments.

VII. Director's Report

Acting Executive Director Wolf informed the Commissioners that amendments introduced by Supervisor Peskin regarding Ellis relocation payments were passed by the Board of Supervisors this afternoon on first reading. The amendments implement state law changes that prohibit the withdrawal of residential hotels in San Francisco and allow relocation payments to be made to all tenants, not just low-income, elderly or disabled tenants.

VIII. New Business

Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupants in a Unit

The Commissioners discussed a Memorandum from Senior Administrative Law Judge Tim Lee regarding an amendment to the Ordinance sponsored by Supervisor Gonzales, which took effect January 2nd. The amendment allows specified family members and/or domestic partners of a tenant to occupy the rental unit notwithstanding a lease provision limiting the number of occupants if the landlord has unreasonably denied the tenant's request to add such occupant. In passing the amendments, the Board of Supervisors expressed their intent that the consent procedures for subletting contained in Rules Sections 6.15A and B substantially apply to this legislation, modified to accommodate the family situations addressed therein. Mr. Lee drafted proposed new Rules Section 6.15D, which tracks the consent procedures of Section 6.15B(b)(1) with the following changes:

1. Proposed Section 6.15D(c)(ii) allows the landlord to obtain sufficient information to confirm the family relationship of the additional occupant to the tenant, and also provides that credit or income information may be requested only if the additional occupant will be legally obligated to pay rent to the landlord;
2. Proposed Section 6.15D(c)(iv) provides that creditworthiness may be the basis for refusal of the tenant's request for the additional occupant only if the additional occupant will be legally obligated to pay rent to the landlord;

3. Proposed Section 6.15D(c)(v) provides that the additional occupant must agree in writing to be bound by the current rental agreement between the tenant and the landlord, but deletes the requirement that the additional occupant must sign the rental agreement in order to avoid any possible inference of the creation of a direct landlord-tenant relationship with the additional occupant; and
4. Proposed Section 6.15D(c)(vi) provides that the total number of occupants cannot exceed two persons per studio rental unit, three per one-bedroom, four per two-bedroom, six per three-bedroom, or eight per four-bedroom.
5. The Leno requirements in Section 6.15B(b)(vi) and (vii), i.e. that the tenant is requesting a replacement of a departing tenant and the request is no more than one time per existing tenant per year, have been deleted to accommodate the family situations involved in the new legislation.

Commissioner Marshall expressed her belief that the consent procedures should not apply to a minor child, which was the consensus opinion of the Board. She will work on drafting some additional language in order to make this explicit. Discussion of this issue will continue at the February 1st meeting.

IX. Calendar Items

January 11, 18 & 25, 2005 - NO MEETINGS

February 1, 2005

6 appeal considerations (1 cont. from 12/14/04; 1 rescheduled from 1/18/05)

Old Business: Ordinance §37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

New Business: Proposed Amendments Regarding Exemption Based on Substantial Rehabilitation

X. Adjournment

President Wasserman adjourned the meeting at 7:20 p.m.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
February 1, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

JAN 28 2005

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01-23-05A11:41 RCV

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 653 Capp St. AT050003

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1168-1170 Stanyan St. AL040138
(cont. from 12/14/04)

The landlord appeals the decision granting rent reductions to the tenants in two units due to decreased housing services.

C. 440 Davis Court #1921 AL040162

The landlord appeals the decision determining that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

D. 445 O'Farrell #103, 420 & 426 AL040161

The landlord appeals the remand decision granting rent reductions due to the lack of fire sprinklers in this residential hotel.



E. 3649 Market #203

AL040160

The landlord appeals the decision granting a rent reduction due to the landlord's failure to provide the tenant with extra key sets.

F. 794 San Jose Ave. #5

AL040159

(rescheduled from 1/18/05)

The landlord appeals the decision granting rent reductions due to decreased housing services, including an unreasonable amount of noise from an upstairs unit.

VI. Communications

VII. Director's Report

VIII. Old Business

Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Proposed Amendments to the Regulations Regarding Exemptions Based on Substantial Rehabilitation

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

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MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, February 1, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present:

Becker; Gruber; Henderson; Hurley;
Marshall; Mosbrucker; Mosser;
Wasserman.

Staff Present:

Lee; Gartzman; Wolf.

Commissioner Justman appeared on the record at 6:08 p.m.; Commissioner
Murphy arrived at the meeting at 6:20 p.m.; and Commissioner Mosser left
the meeting at 7:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 4, 2005.
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Landlord Teresa Gonio commented on the recently enacted Gonzales
amendments regarding the additional occupancy of family members in a unit.
Ms. Gonio wanted to draw the Commissioners' attention to what she believes
could happen as a result of this legislation. She predicted that there will be fires
throughout the City, as the housing stock is old and not built to accommodate so
many people; tenants will divide up rooms into separate units; and there will be
too many electrical appliances. Ms. Gonio realizes that the Board of Supervisors
passed this legislation, but still feels that the blame will be on the Rent Board's
shoulders if any of these scenarios should come to pass.

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FEB 14 2005

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B. Robert Pender, Vice-President of the Parkmerced Tenants' Organization (PRO), invited the Commissioners to PRO's first General Meeting of 2005. Mr. Pender informed the Board that Olympic View Realty is his third landlord since 1974.

C. Ted Lowenberg, President of the Small Property Owners of San Francisco, told the Board that it is up to them to correct what he sees as deficiencies in the Gonzales legislation. Mr. Lowenberg believes that the process outlined in the legislation fails to address: landlords being out of town for a significant period of time; the need for documentation as to familial relationships; that new tenants should be "automatically" 6-14'd; potentially increased Ellis and OMI relocation expenses; and that the new tenants should not be allowed to bring in pets.

D. Sarah Norr of the Central City SRO Collaborative asked that the Board deny the landlord's appeal regarding the case at 445 O'Farrell (AL040161). Ms. Norr reminded the Board that the case was remanded only to consider the tenants' new evidence regarding the period of time for which the rent reductions should be granted. Ms. Norr maintained that the landlord's new appeal raises issues outside the scope of the remand, and that the landlord had the opportunity to raise those issues but didn't appeal the original decision. Additionally, the landlord raised these arguments in another case and they were rejected by the Board.

E. Tenant Susan Lawrence of the Winton Hotel (AL040161) said that the landlord has already made all these arguments; that the ALJ's decision is consistent with other Board decisions; and that fires have displaced "tons" of SRO tenants. Ms. Lawrence believes that "consistency in Rent Board decisions is the key to accountability."

V. Consideration of Appeals

A. 653 Capp St.

AT050003

The landlords' petition for certification of capital improvement costs to the tenants in five units was granted, resulting in a monthly passthrough in the amount of \$32.96. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 1168-1170 Stanyan St.

AL040138

(cont. from 12/14/04)

Two tenant petitions alleging decreased housing services were granted and rent reductions in the amount of \$100 and \$75 per month were ordered for the loss of a roof deck to both units; and \$30 was granted for the loss of a back porch to the tenant in unit 1170 only. On appeal, the landlord claims that: after a six and a half year delay, the rent reductions for the roof deck should be barred by the equitable doctrine of laches; prejudice to the landlord should be presumed after almost seven years and actual prejudice exists in this case; the delay indicates that the roof deck was not a substantial housing service; the tenant in unit 1170 paid no additional consideration for the deck and so no rent reduction is warranted, despite the deck having become part of the tenancy prior to the enactment of the Rent Ordinance; one of the tenants in unit 1168 moved in after removal of the deck so the rent reduction should be halved for that unit; rent reductions should not be granted when amenities are removed for safety reasons; the Rent Board has no authority to make monetary awards, particularly to a deceased tenant's heirs who paid no rent; the tenant in unit 1170 filed his petition out of retaliatory motives; and a rent reduction granted seven years after the loss of a housing service does not advance the purposes of the Ordinance.

MSF: To deny the appeal. (Marshall/Becker: 2-3; Gruber, Murphy, Justman dissenting)

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to grant reductions in the amount of \$100.00 per month for the tenants in both units for 27 months (October 1997 until January 2000) and from April 6, 2004 until such time as the roof deck is restored and the base rent is properly increased. (Justman/Murphy: 5-0)

C. 440 Davis Ct. #1921

AL040162

The landlord's petition for a determination pursuant to Rules and Regulations 1.21 was denied because the Administrative Law Judge found that the landlord failed to show that the tenant did not reside in the subject unit as her principal place of residence. On appeal, the landlord asserts that the tenant's conduct, including her failure to appear at the hearing, resulted in the landlord being unable to satisfy its burden of proof; and the tenant's failure to cooperate with Rent Board proceedings should not result in a ruling in her favor.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to consider Evidence Code Section 413 and what, if any, inferences should be drawn from the tenant's failure to explain or deny the evidence presented by the landlord; a

hearing will be held only if determined to be necessary by the Administrative Law Judge. (Justman/Marshall: 4-1; Becker dissenting)

D. 445 O'Farrell #103, 420 & 426

AL040161

Seven tenant petitions alleging decreased housing services were granted due to the lack of installation of automatic fire sprinklers in this residential hotel. The landlord was held liable to the tenants in the amount of \$20.00 per month for a 3-1/2 month period, after which time the Administrative Law Judge found that the City failed to process the permit application. The tenants in three units appealed, asserting that the City's delay in issuing the permit was caused by the landlord having filled out the application incorrectly and then taking five months to respond to the City's request for clarification. The Board accepted the appeals and remanded the case on this issue. In the Decision on Remand, the Administrative Law Judge found the landlord liable for rent reductions for the entire period of the delay plus the six-month period between issuance of the permit and completion of the sprinkler installation. The landlord appeals the remand decision, arguing that: the Rent Board failed to follow its own procedures in finding good cause for the untimely filing of the tenants' appeals; the Administrative Law Judge showed bias toward the tenants in recommending that a remand hearing be held; the Residential Hotel Sprinkler Ordinance (RHSO) created no rights or remedies for tenants under the Rent Ordinance; the installation of a fire sprinkler system constitutes a capital improvement and not a housing service; when the petitioners negotiated the initial base rent for their units, they knew that the units were not sprinklered; because the Rent Board does not have subpoena power, the landlord was precluded from providing relevant evidence from City housing and fire inspectors; and the RHSO is unenforceable because it was never approved by the appropriate State agencies.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

E. 3649 Market #203

AL040160

The tenant's petition alleging decreased housing services due to the landlord's failure to provide extra key sets was granted and the landlord was found liable to the tenant in the amount of \$100.00 per month, or \$750.00. On appeal, the landlord claims that: the building has had substantial security issues over the years; the new key system was installed to ensure the safety of all tenants; and there is adequate access for guests through the phone entry system.

This appeal was withdrawn just prior to the meeting.

F. 794 San Jose Ave. #5

AL040159

(rescheduled from 1/18/05)

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$740.00 due to various habitability problems in the unit and an unreasonable level of noise from the upstairs tenant. The landlord appeals regarding rent reductions granted for a broken living room window and the alleged noise problem, maintaining that: the landlord was never cited regarding the living room window, although a Notice of Violation was issued for other conditions in the unit; the living room window is not substandard; it is unclear what a "reasonable" response to the noise problem on the part of the landlord would be; "lack of noise" is not a housing service provided by the landlord nor within the landlord's control; and, since it is impossible to tell whether the problem has been abated, the tenant is being granted a permanent rent reduction, which is unfair.

MSC: To deny the appeal. (Becker/Marshall: 3-2;
Gruber, Murphy dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Office workload statistics for the months of November and December 2004.

B. An updated Rent Ordinance and list of Ordinance amendments.

C. A new staff roster.

D. An update on new State laws pertaining to evictions.

E. An article from the LA Times regarding inappropriate behavior of City Council members.

F. An e-mail from Senior Administrative Law Judge Tim Lee regarding Ellis amendments, which will go into effect February 20, 2005.

VII. Director's Report

Acting Executive Director Wolf informed the Board that she attended a meeting of the SRO Task Force and went over amendments to the Hotel Visitor Policy enacted by the Rent Board pursuant to a Public Hearing on December 8, 2004.

The Task Force and landlord and tenant members of the Committee expressed their appreciation to the Rent Board for their hard work and an inclusive public process. An 11x17" copy of the revised Visitor Policy in English will be mailed to all residential hotel owners and operators; translated versions of the Policy into four languages will be available at the Rent Board shortly. Ms. Wolf also informed the Commissioners that Nick Pagoulatos, former Director of St. Peter's Housing Committee, has begun serving as a Rent Board counselor on a 6-month temporary requisition due to the disability leave of another counselor.

VIII. Old Business

Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

The Board continued their discussion of amendments to the Ordinance sponsored by Supervisor Gonzales, which took effect on January 2nd. The amendments allow for specified family members and/or domestic partners of a tenant to occupy the rental unit notwithstanding a lease provision limiting the number of occupants if the landlord has unreasonably denied the tenant's request to add such occupant. In passing the amendments, the Board of Supervisors expressed their intent that the consent procedures for subletting contained in Rules Sections 6.15 A and B substantially apply to this legislation, modified to accommodate the family situations addressed therein. Senior Administrative Law Judge Tim Lee drafted amendments to Rules Sections 6.15A(b) and 6.15B(a) and proposed new Rules Section 6.15D, which substantially tracks the consent procedures of Section 6.15B(b)(1) with certain necessary changes due to these being familial relationships.

At the Board meeting on January 4th, the Commissioners discussed the proposed language. At that meeting, Commissioner Marshall expressed her belief that the consent procedures should not apply to a minor child, which was the consensus of the Board. Mr. Lee subsequently revised proposed §6.15D to exclude minor children from the application process outlined as well as to clarify the number of occupants that will be allowed. With these and two other minor technical changes, the Board passed the following motion:

MSC: To put out for Public Hearing proposed amendments to Rules and Regulations Sections 6.15A and B and proposed new Section 6.15D to conform the Rules to newly enacted Ordinance Section 37.9(a)(2)(B). (Marshall/Justman: 5-0)

IX. New Business

Proposed Amendments to the Regulations Regarding Exemption Based on Substantial Rehabilitation

Senior Administrative Law Judge Sandy Gartzman provided the Board with an overview of problems regarding the procedures for obtaining exemption from the Ordinance for buildings that have undergone substantial rehabilitation as defined in Ordinance Section 37.2(s) and Rules Sections 1.18 and 8.12. It has come to Ms. Gartzman's attention that some of the requirements specified in Rules Section 8.12 may be impossible for a landlord to meet. For example, a landlord's petition for exemption based on sub rehab must be accompanied by various documents generated by the Department of Building Inspection (DBI), including: a determination of condemnation; and/or a determination by DBI that the premises were ineligible for a permit of occupancy; a complete inspection report issued by DBI prior to the commencement of the work; and a final notice of completion from DBI. However, DBI no longer issues determinations of condemnation or determinations that the premises were ineligible for a permit of occupancy. They also do not perform complete inspections prior to commencement of rehabilitation work. And, there is no such thing as a "final notice of completion."

Ms. Gartzman reported that she and several members of her staff met with Senior Building Inspector Lawrence Kornfield to verify current DBI procedures. She informed the Board that there are currently four sub rehab petitions pending, with a fifth on the way. In the absence of documentation from DBI, it will be left up to the Administrative Law Judges who hear these petitions to determine whether the buildings are "essentially uninhabitable." The Commissioners will review materials provided by Ms. Gartzman and continue discussion of this issue at the next meeting, with an eye to formulating appropriate amendments to the Rules and Regulations and procedures governing sub rehab exemption.

X. Calendar Items

February 8, 2005 - NO MEETING

February 15, 2005

5 appeal considerations

Old Business:

A. Proposed Amendments to the Regulations Regarding Sub Rehab

B. Ord. §37.9(a)(2)(B) Regarding Additional Occupants

New Business: Departmental Budget

XI. Adjournment

President Wasserman adjourned the meeting at 8:20 p.m.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
February 15, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 750 Guerrero #4 & #6 AT050005 & AT050010

Two tenants appeal the Minute Order certifying capital improvement costs on the grounds of financial hardship. One of the tenants requests that good cause be found for the late filing of a request for election of the 100% passthrough alternative.

B. 1301 - 31st Ave. AL050001

The landlord appeals the determination that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

C. 5538 Fulton St. AL040163

The landlord appeals the decision granting rent reductions due to a lack of heat in the unit.

D. 26 John St., Apt. A AL050002

The landlord appeals the decision that the tenants are "Tenants in Occupancy" pursuant to Rules Section 1.21.



E. 1000 Chestnut St. #9E

AL050004

The landlord appeals the decision partially granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Proposed Amendments to the Regulations Regarding Exemptions Based on Substantial Rehabilitation

B. Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Departmental Budget

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

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Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, February 15, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:18 p.m.

II. Roll Call

Commissioners Present:

Becker; Gruber; Henderson; Hurley;
Justman; Marshall; Mosbrucker;
Wasserman.

Commissioners not Present:

Mosser; Murphy.

Staff Present:

Gartzman; Wolf.

Commissioner Wasserman went off the record at 7:40 p.m.; Commissioner Justman left the meeting at 8:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 1, 2005.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A member of the public asked whether the Board was going to discuss the "Gonzales" amendments to the Ordinance.

V. Consideration of Appeals

A. 750 Guerrero #4 & #6

AT050005 & -10

The landlord's petition for certification of capital improvement costs to the tenants in seven units was granted pursuant to a Minute Order. The tenant in unit #4 appeals on the grounds of financial hardship. The tenant in unit #6 also appeals

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on the grounds of hardship, claiming that disability prevented her from timely filing the election form for the 100% passthrough alternative.

The Board continued consideration of the appeal of the tenant in unit #4 so that staff could pursue an allegation by the landlord that the tenant's wife also resides in the unit. If this is the case, she will need to provide a Tenant Hardship Application as well.

MSC: To recuse Commissioner Henderson from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To accept the appeal of the tenant in unit #6 to find good cause for the late election of the 100% passthrough alternative and remand the case to the Administrative Law Judge on the record in order to phase in the certified capital improvement costs in accordance with Ordinance Section 37.7©(5)(B)(ii) and Rules and Regulations Section 7.12(c)(5)(B)(ii). (Becker/Justman: 5-0)

B. 1301 – 31st Ave.

AL050001

The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit was the tenant's principal place of residence. On appeal, the landlord argues that: the tenant's IDs all list her Florida address and her utilities are billed there; the subject unit is furnished with the tenant's possessions because she uses it as a secondary residence; the tenant's absence is not reasonable or temporary, having lasted for 5-6 years; and the tenant is never at the subject unit, nor does she receive mail there.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to make a determination that the tenant is not a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21. (Gruber/Hurley: 3-2; Marshall, Becker dissenting)

C. 5538 Fulton St.

AL040163

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$3,245.00 due to habitability problems in the unit. Additionally, rent overpayments in the amount of \$688.84 were determined to be owing from the landlords to the tenants. The landlords appeal the decision only as to the rent reduction granted for lack of heat, maintaining that: the rent reduction was granted for a period of time which

included the summer months, without any evidence that the tenants used the heat year-round; and the Decision grants compensatory damages, which is a judicial function.

MSC: To deny the appeal. (Gruber/Marshall: 5-0)

D. 26 John St., Apt. A

AL050002

The landlord's petition for a determination pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins was denied because the Administrative Law Judge found that the tenants are original tenants who are just temporarily staying with their adult son while one of the tenants recuperates from surgery. The landlord appeals, maintaining that: the landlord made a threshold showing that the unit is not the tenants' principal place of residence, after which the burden of proof should have shifted to the tenants; the tenants are also co-owners of the building in which their son resides; and the decision was based on a hearsay statement by one of the tenants.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

E. 1000 Chesnut St. #9E

AL050004

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$70.00 due to the loss of use of the unit for one day due to the installation of new windows. The landlords appeal, asserting that: if the reduction in services was indeed substantial, the tenants would have taken the landlords up on their offer of accommodations; the tenants were not forced to leave their unit; the tenants' real complaint was with work done on the shower in their unit; and the rent reduction granted should not have been for a full 24 hours but, rather, for the 8 hours in a day.

MSC: To deny the appeal. (Marshall/Becker: 4-1; Gruber dissenting)

VI. Communications

The Board received the following communications:

A. A new roster of Commissioners.

B. A copy of the proposed departmental budget submission with explanatory Memo from Acting Executive Director Wolf.

C. Form 700 Statement of Economic Interests and Sunshine Ordinance Declaration.

D. A letter from the Small Property Owners of San Francisco regarding the Gonzales amendments.

VII. Director's Report

Acting Executive Director Wolf informed the Board that their Statement of Economic Interests Forms and Sunshine Ordinance Declarations are due to the Ethics Commission on April 1, 2005.

VIII. Old Business

A. Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

At their meeting on February 1, 2005, the Commissioners passed a motion to put out for Public Hearing proposed amendments to Rules and Regulations Sections 6.15A and B and proposed new Section 6.15D to conform the Rules and Regulations to newly enacted Ordinance Section 37.9(a)(2)(B). This amendment to the Rent Ordinance, proposed by Supervisor Gonzales, allows for specified family members and/or domestic partners of a tenant to occupy the rental unit notwithstanding a lease provision limiting the number of occupants if the landlord has unreasonably denied the tenant's request to add such occupant. Proposed new Rules Section 6.15D outlines consent procedures modeled after the consent procedures for subletting contained in Rules Sections 6.15A and B, per the intent of the Board of Supervisors, modified to accommodate family situations.

Commissioner Becker brought to the Board's attention the fact that the Gonzales amendments are merely an eviction protection for tenants if a landlord unreasonably withholds consent. Commissioner Becker believes that new Section 6.15D should also provide for a decrease in services remedy for tenants as contained in Rules Sections 6.15A and B and proposed the addition of new subsection 6.15D(e) to read as follows:

(e) A landlord's unreasonable refusal to consent to a tenant's written request for the addition to the unit of a tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of the addition of the spouse or domestic partner of a tenant, subject to subsections 6.15D(ii), (iv), (v) and (vi), above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

MSC: To add proposed new subsection 6.15D(e), along with certain minor technical amendments, to the proposed amendments being put out for Public Hearing in order to conform the Rules to newly enacted Ordinance Section 37.9(a)(2)(B).
(Becker/Marshall: 5-0)

The Board also discussed a letter from the Small Property Owners of San Francisco, making several suggestions as to possible amendments to the Rules and Regulations that these owners believe would more fairly implement the Gonzales legislation. One of the suggestions in this letter was Rent Board mediation in cases where the owner and tenant failed to agree. This led to a discussion of the possible Rent Board equivalent of a Declaratory Relief action, where a landlord or tenant could file a petition for a determination as to the reasonableness of a request or refusal. This could protect tenants from the threat of eviction, while also protecting landlords from the possibility of a wrongful eviction action. There were concerns voiced by the Tenant Commissioners that such a landlord petition could lead to delay in a tenant's ability to obtain consent. Commissioner Becker will work with Senior Administrative Law Judge Tim Lee and bring some proposed language back to the Board at the meeting on March 1st.

B. Proposed Amendments to the Regulations Regarding Exemptions Based on Substantial Rehabilitation

Senior Administrative Law Judge Sandy Gartzman continued her discussion with the Board of problems regarding the procedures for obtaining exemption from the Ordinance for buildings that have undergone substantial rehabilitation as defined in Ordinance Section 37.2(s) and Rules Sections 1.18 and 8.12. It has become apparent that some of the requirements contained in Rules Section 8.12 are impossible for a landlord to meet, and that subsections 8.12 (4), (5), (7) and (9) should be stricken from the Regulations. Since the Department of Building Inspection no longer issues determinations of condemnation or determinations that the premises were ineligible for a permit of occupancy, nor do they perform inspections prior to commencement of rehab work, it is currently up to the ALJ's to determine what is "essentially uninhabitable." At the Board's request, the Administrative Law Judge staff will hear the sub rehab petitions currently in the pipeline, and formulate a proposal for possible amendments to §8.12 for the Commissioners' consideration.

IX. New Business

Departmental Budget

Acting Executive Director Wolf discussed the budget proposal for the fiscal year '05-'06 that will be submitted to the Mayor's Office on February 22nd. The budget will remain very much the same as last year's budget, except for mandated increases for salaries and fringe benefits. In the submission to the Commissioners, the expenditures for the services of the City Attorney and temporary salaries were reduced from last year. After discussion, it was the consensus of the Board that these line items should be restored to last year's levels.

MSC: To approve the proposed budget, with increases in the City Attorney and temporary salaries line items, and a possible increase in translation services, if appropriate.
(Gruber/Marshall: 4-0)

X. Calendar Items

February 22, 2005 - NO MEETING

March 1, 2005

4 appeal considerations

Old Business: Gonzales Amendments

XI. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
March 1, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

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DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 20 – 12th St. #519 & 231 AT050007 & -08

Two tenants appeal a decision granting rent reductions due to decreased housing services.

B. 370 – A Dolores St. AL050006

The landlord appeals the decision granting a claim of unlawful rent increases.

C. 1930 Sacramento #10 AT050009

The subtenant appeals the decision denying a claim that the Master Tenant charged the subtenant more than her proportional share of the rent.

D. 2235 Laguna St. #504 AT050011

The tenant appeals the determination that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

VI. Communications

VII. Director's Report

VIII. Old Business

Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



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SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, March 1, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY

ANTHONY JUSTMAN
CATHY MOSBRUCKER

NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Mosbrucker; Mosser; Wasserman.

Commissioners not Present: Justman; Marshall.

Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 15, 2005.
(Gruber/Hurley: 5-0)

IV. Remarks from the Public

A. Attorney Carlos Privat, representing the landlord in the case at 2235 Laguna #504 (AT050011), told the Board that the tenant contacted the Rent Board subsequent to having terminated her tenancy. Mr. Privat contends that the tenant has no standing to bring an appeal.

B. Natalia Michalun, the tenant in the case concerning 2235 Laguna, told the Board that she filed the appeal prior to terminating her tenancy.

V. Consideration of Appeals

A. 20 - 12th St. #519 & 231

AT050007 & -08

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Tenant petitions alleging decreased housing services due to the landlord's failure to timely install a fire sprinkler system in this residential hotel were granted and the landlord was found liable to the tenants in the amount of \$20.00 per month. Two tenants appeal, explaining that they accidentally failed to provide their move-in dates on their petitions, and therefore rent reductions were only granted back to the date the petitions were filed.

MSC: To accept the appeals and remand the case to the Administrative Law Judge to grant the rent reduction for the tenant in unit #519 commencing July 1, 2002 if the tenant can demonstrate that he moved in prior to that time and as of the demonstrated move-in date of the tenant in unit #231; a hearing will be held only if necessary. (Becker/Mosbrucker: 4-1; Hurley dissenting)

B. 370 – A Dolores St.

AL050006

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$3,412.50. The landlord appeals, arguing that the prior landlord is an indispensable party to the case; and the improper rent increases were collected by the prior owner of the property.

MSC: To deny the appeal. (Becker/Mosbrucker: 5-0)

C. 1930 Sacramento St. #10

AT050009

The subtenant's appeal was filed thirteen days late because the subtenant was out of the country at the time the Decision was mailed.

MSC: To find good cause for the late filing of the appeal.
(Becker/Mosbrucker: 5-0)

The subtenant's petition alleging that she was charged more than her proportional share of the rent was denied. However, the Master Tenant was found liable to the subtenant in the amount of \$42.00 due to her failure to remove her possessions from the subtenant's bedroom closets. On appeal, the subtenant argues that: the Decision is in error in finding that the subtenant's separate space was larger than the Master Tenant's; the hallway closet was not a common area and wasn't equally shared by the Master Tenant and subtenant; the Master Tenant's testimony should not be found credible, since she lied in attempting to postpone the hearing; and the Master Tenant's storage of large objects in the living room resulted in a decrease in housing services to the subtenant.

MSC: To deny the appeal. (Mosbrucker/Becker: 5-0)

D. 2235 Laguna #504

AT050011

The subtenant's appeal was filed slightly over three weeks late because she was out of the country at the time the Decision was mailed.

MSC: To find good cause for the late filing of the appeal.
(Becker/Mosbrucker: 5-0)

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was granted and the Administrative Law Judge found that there was no "Tenant in Occupancy" at the subject unit at the time the petition was filed; the tenant had failed to appear at the properly noticed hearing. The tenant appeals, claiming that: she did not receive the Notice of Hearing because she was in Argentina taking care of her mother at the time; she has been traveling, and many of the documents to establish residency will be available to her upon her return to San Francisco in February; the landlord may have had her daughter's phone number because her number is still in service; and she donated her car to a local church because it no longer ran properly. The tenant also furnished bank statements and other indices of residency with her appeal.

MSC: To accept the appeal and remand the case to the ALJ for a new hearing. (Becker/Mosbrucker: 4-1; Gruber dissenting)

VI. Communications

The Commissioners received an article from the San Francisco Chronicle regarding the purchase of the Stonestown Apartments by San Francisco State University for use as student and faculty housing. In addition, the Board received a current Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

VII. Director's Report

A. Acting Executive Director Delene Wolf informed the Board that the California Supreme Court has voted to grant review in the Action Apartment v. City of Santa Monica case, where the Court of Appeal held that tenants could not sue for wrongful eviction based on the service of illegitimate eviction notices because their sole remedy was malicious prosecution due to the litigation privilege.

B. Ms. Wolf reminded the Commissioners that their Statement of Economic Interest Forms must be filed with the Ethics Commission by April 1st.

Sunshine and Ethics Training will be provided by the Office of the City Attorney on Monday, March 7th, from 5:30 to 8:00 p.m. at the Herbst Theater.

C. Senior Administrative Law Judge Tim Lee informed the Board that amendments to Sections 1359(d) and 1396.1 of the Subdivision Code introduced by Supervisor Daly require owners who are applying for condominium conversion to certify that there have been no evictions from the unit of elderly tenants who have resided in the unit for ten years or disabled tenants since November 16, 2004. Mr. Lee informed the Board that he will check the Rent Board's records regarding requests for a one year extension of the date of withdrawal by elderly or disabled tenants who have received Ellis eviction notices; and claims of protected status by elderly or disabled tenants who have filed such claims with the Board.

VIII. Old Business

A. Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

At their meeting on February 1, 2005, the Commissioners passed a motion to put out for Public Hearing proposed amendments to Rules and Regulations Sections 6.15A and B and proposed new Section 6.15D to conform the Rules and Regulations to newly enacted Ordinance Section 37.9(a)(2)(B). This amendment to the Rent Ordinance, proposed by Supervisor Gonzales, allows for specified family members of a tenant and/or domestic partners to occupy the rental unit notwithstanding a lease provision limiting the number of occupants if the landlord has unreasonably denied the tenant's request to add such occupant. Proposed new Rules Section 6.15D outlines consent procedures modeled after the consent procedures for subletting contained in Rules Sections 6.15A and B, per the intent of the Board of Supervisors, modified to accommodate family situations. At the meeting on February 15, 2005, the Board voted out for Public Hearing additional language providing for a decrease in services remedy for tenants whose landlord has unreasonably withheld consent to a family member or domestic partner. At the instant meeting on March 1, 2005, the Board discussed proposed language from Commissioner Becker and Senior Administrative Law Judge Tim Lee which would allow a landlord or tenant to request a Rent Board determination of whether a landlord's withholding of consent for an additional occupant was reasonable, and providing that any petition for such a determination or for a decreased housing service under this Section shall be expedited.

MSC: To add proposed new subsections 6.15D(f) and (g) to the proposed amendments being put out for Public Hearing in order to conform the Rules to newly enacted Ordinance Section 37.9(a)(2)(B). (Becker/Marshall: 5-0)

The Public Hearing will be held at the Board meeting on March 29th.

IX. Calendar Items

March 8, 2005 - NO MEETING

March 15, 2005

7 appeal considerations (1 cont. from 2/15/05)

X. Adjournment

President Wasserman adjourned the meeting at 6:55 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
March 15, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

MAR 11 2005

SAN FRANCISCO
PUBLIC LIBRARY

03-11-05 11:02 RLVD *

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 750 Guerrero St. #4

AT050005
(cont. from 2/15/05)

The tenant appeals the Minute Order certifying capital improvement costs on the grounds of financial hardship.

B. 171 Broad St.

AL050013

The landlords appeal the decision granting a claim of decreased housing services.

C. 3325 Steiner St. #16

AL050014

The landlord appeals the decision granting a claim of decreased housing services.

D. 945 Larkin St. #54

AT050015

The tenant appeals the decision denying certain decreased housing service and unlawful rent increase claims.

E. 899 Corbett Ave. #1

AT050027

The tenant appeals the decision certifying capital improvement costs, alleging deferred maintenance on the part of the current owner.

F. 2201 Pacific Ave. #601

AL050016

The landlord appeals the decision determining that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

G. 614 Pine St. #314, 210, 421, 409, 402, 202, 212, 302 & 419

AT050018 thru -26

The tenants in nine units appeal the decision granting rent increases based on increased operating expenses on substantive grounds and claims of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

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SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, March 15, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

MAR 25 2005

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II. Roll Call

Commissioners Present: Becker; Gruber; Mosbrucker; Mosser;
Wasserman.

Commissioners not Present: Henderson; Justman.

Staff Present: Lee; Wolf.

Commissioners Hurley and Murphy appeared on the record at 6:06 p.m.;
Commissioner Marshall arrived at the meeting at 6:11 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 1, 2005.
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Ron Woo, the landlord in the operating expense increase case concerning 614 Pine (AT050018 thru -26), told the Board that the building's appraisal was not submitted because it "has a lot of confidential information," and that two of the building's businesses have failed, resulting in re-rental at reduced rents. Mr. Woo said that he is only increasing the rents of tenants paying less than \$500 per month, and that the 7% increases are being phased in over a two-year period at the rate of 3-1/2% per year.

B. Gen Fujioka, Attorney for the tenants at 614 Pine, argued that, in a mixed-use building, commercial units that generate 2/3 of the building's income should not have the same cost allocation as residential units. Mr. Fujioka believes that square footage is not a relevant factor in allocating the operating

expenses, because the commercial units generate more of the debt service. He suggested that the building's appraisal could be of help, but it was not provided in this case. Mr. Fujioka suggested that costs should be allocated based on the percentage of the value of the building they represent.

V. Consideration of Appeals

A. 750 Guerrero St. #4

AT050005

(cont. from 2/15/05)

The landlord's petition for certification of capital improvement costs to the tenants in seven units was granted pursuant to a Minute Order. The tenant in unit #4 appealed on the grounds of financial hardship. The Board continued consideration of the appeal so that staff could pursue an allegation by the landlord that the tenant's wife also resides in the unit, in which case she would need to provide a Tenant Hardship Application as well.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 171 Broad St.

AL050013

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$322.50 due to noise from the landlords' roosters crowing in the back yard and lack of access to the mailbox. The landlords appeal, appearing to claim that there could not have been six roosters and one hen on the premises; questioning the tenant's tape recording, since roosters cannot crow non-stop for that long; and wondering whether the tenant stayed at home all day.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

C. 3325 Steiner St. #16

AL050014

The tenant's petition alleging unlawful rent increases, decreased housing services and the landlord's failure to repair was granted, in part. The unlawful rent increase and failure to repair claims were found to be without merit. However, the landlord was found liable to the tenant in the amount of \$270.12 due to a gas leak in the stove and a power outage. The landlord appeals, claiming that: the amounts granted are unreasonable; the electrical problem was repaired prior to the time period for which the rent reduction was granted; and \$60.00 per month is excessive for the malfunctioning stove considering the fact that the tenant admits he does not cook.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

D. 945 Larkin St. #54

AT050015

The tenant's petition alleging decreased housing services was granted as to a claim of lack of heat and the landlord was found liable to the tenant in the amount of \$65.00 per month for a 3.25-month period. A claim of improper rent increase was denied because the Administrative Law Judge found all rent increases to have been proper and a claim regarding lead based paint in the unit was found not to have been proved. The tenant appeals, claiming that: the Administrative Law Judge ignored the evidence she presented; there are many factual errors in the Decision; the tenant was not allowed to move back to her original unit after being terminated as Resident Manager, as had been promised; and there was no heat in the unit for four years.

MSC: To deny the appeal. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

E. 899 Corbett Ave. #1

AT050027

The landlord's petition for certification of capital improvement costs was granted, in part. The tenant appeals on the grounds that: the work was necessitated by the deferred maintenance of the current owner, who was on notice regarding the necessary repairs; if the landlord had timely repaired the leaks in the unit, friable asbestos would not have been released and the carpet wouldn't have needed to be replaced; certain repairs were the result of defects in the deck for the upstairs unit; and code violations existed that were not repaired within ninety days.

MSC: To deny the appeal. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

F. 2201 Pacific Ave. #601

AL050016

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the tenant was a "Tenant in Occupancy" at the subject unit at the time the petition was filed. The landlord appeals, arguing that: the Administrative Law Judge erred in finding that the tenant did not claim a homeowner's exemption for a property in Sausalito; the evidence shows that the tenant's principal place of residence is in Sausalito; the tenant was evasive at the hearing and ignored the landlord's discovery requests; and the landlord met its burden of proving that the subject unit is not the tenant's principal place of residence.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to vacate the Decision and find that the unit is not the tenant's principal place of residence. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

G. 614 Pine St. #314, 210, 421, 409, AT050018 thru -26
402, 202, 212, 302 & 419

The landlord's petition for rent increases to 41 of 59 units based on increased operating expenses was granted. The tenants in nine units appeal the decision on the grounds of financial hardship as well as on the grounds that: the landlord failed to meet its burden of proof by failing to provide a complete copy of the property's appraisal; and, in a mixed-use building, allocation of costs based on square footage leads to an unfair result because the commercial units account for a higher sales price and a resulting greater increase in debt service, as well as higher insurance costs.

MSC: To deny the tenants' joint substantive appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

MSC: To accept the appeals of the tenants in unit numbers 202, 302, 314, 402, 419 and 421 and remand the cases for hearings on the tenants' claims of financial hardship. (Becker/Wasserman: 5-0)

MSC: Pursuant to the stipulation of the landlord, to accept the appeals of the tenants in unit numbers 210, 212 and 409 and remand the cases to the Administrative Law Judge on the record to find sufficient financial hardship to warrant permanent deferral of the approved rent increases. The landlord shall refund any sums paid by the tenants forthwith. (Gruber/Murphy: 5-0)

VI. Communications

The Commissioners received a copy of the Notice of Public Hearing for the March 29th Public Hearing on proposed new Rules and Regulations Section 6.15(D), to conform the Regulations to newly enacted Ordinance Section 37.9(a)(2)(B) regarding additional occupancy of family members. They also received a copy of an article from the March 2nd "Beyond Chron" regarding alleged continuing problems with retained ID faced by visitors to residential hotels.

VII. Director's Report

Senior Administrative Law Judge Tim Lee informed the Board that Landlord Attorney Andrew Zacks has filed a lawsuit challenging the recently increased amounts for Ellis relocation payments (legislation introduced by Supervisor Peskin and passed by the Board of Supervisors). Judge Warren denied Mr. Zacks' request for stay; a hearing on the merits will be held on March 23rd.

VIII. Calendar Items

March 22, 2005 - NO MEETING

March 29, 2005

- 9 appeal considerations (1 rescheduled from 3/15/05)
- 6:30 Public Hearing: Gonzales Amendments
- New Business: Water & Sewer Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds(Ordinance §37.3(a)(5)(B))

XI. Adjournment

President Wasserman adjourned the meeting at 7:35 p.m.



March 7, 2005

GAVIN NEWSOM
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTICE OF PUBLIC HEARING

DELENE WOLF
ACTING EXECUTIVE DIRECTOR
DOCUMENTS DEPT.

DATE: March 29, 2005

MAR - 9 2005

TIME: 6:30 P.M.

SAN FRANCISCO
PUBLIC LIBRARY

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70, LOWER LEVEL
SAN FRANCISCO, CALIFORNIA

03-09-05 AGG.25 RLVU

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON PROPOSED NEW RULES AND REGULATIONS SECTION 6.15(D). THE INTENT OF THIS NEW SECTION, AS WELL AS NECESSARY AMENDMENTS TO RULES SECTIONS 6.15A(b) AND 6.15B(a), IS TO CONFORM THE RULES AND REGULATIONS TO NEWLY ENACTED ORDINANCE SECTION 37.9(a)(2)(B) REGARDING ADDITIONAL OCCUPANCY OF FAMILY MEMBERS.

Ordinance Section 37.9(a)(2)(B), sponsored by Supervisor Gonzales, allows for specified family members and/or domestic partners to occupy the rental unit notwithstanding a lease provision limiting the number of occupants if the landlord has unreasonably denied the tenant's request to add such occupant. Proposed new Rules Section 6.15D outlines consent procedures modeled after the consent procedures for subletting contained in Rules Sections 6.15A and B, modified to accommodate family situations; provides for a decrease in services remedy for tenants who believe the landlord has unreasonably withheld consent; and allows a landlord or a tenant to request a Rent Board determination of whether a landlord's withholding of consent for an additional occupant was reasonable.

You may either comment at the Public Hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Department no later than **noon on Wednesday, March 23rd, 2005**, so that the Commissioners can be mailed your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit 12 copies of your comments in order to facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.

Proposed new section 6.15D, which is entirely new, reads as follows:

Section 6.15D Additional Family Members—Where Rental Agreement Limits the Number of Occupants or Limits or Prohibits Subletting

(a) This Section 6.15D applies when a lease or rental agreement includes a clause limiting the number of occupants or limiting or prohibiting subletting or assignment, and a tenant who resides in the unit requests the addition of the tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or the domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or the spouse or domestic partner of the tenant.

(b) If the tenant makes an initial written request to the landlord for permission to add a person specified in subsection 6.15D(a) above, and the landlord fails to respond in writing within fourteen (14) days of actual receipt of written notice, the tenant's request for the additional person is deemed approved pursuant to Ordinance Section 37.9(a)(2)(B).

(c) The tenant's inability to obtain the landlord's consent to the addition of a person specified in subsection 6.15D(a) above shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the additional person is deemed approved pursuant to subsection (b) above or where the

landlord has unreasonably withheld consent to such additional person. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has notified the landlord of the addition of a minor child, or if the additional person is not a minor child, the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to the additional person's occupancy of the unit, and stated the relationship of the person to the tenant;

(ii) The additional occupant, if requested by the landlord, has completed the landlord's standard form application or provided sufficient information to allow the landlord to confirm the relationship of the person to the tenant and to conduct a typical background check, including references and background information; provided, however, the landlord may request credit or income information only if the additional person will be legally obligated to pay some or all of the rent to the landlord;

(iii) The tenant has provided the landlord five (5) business days to process the additional occupant's application;

(iv) The additional occupant meets the regular reasonable application standards of the landlord, except that creditworthiness may be the basis for refusal of the tenant's request for an additional occupant only if and when the additional occupant will be legally obligated to pay some or all of the rent to the landlord;

(v) The additional occupant, if requested by the landlord, has agreed in writing to be bound by the current rental agreement between the landlord and the tenant.

PAGE 4
NOTICE OF PUBLIC HEARING, SECTION 6.15

(vi) With the additional occupant, the total number of occupants does not exceed the lesser of (a) two persons per studio rental unit, three per one-bedroom unit, four per two-bedroom unit, six per three-bedroom unit or eight per four-bedroom unit, or the number of occupants permitted under state law and/or other local codes (e.g., Planning, Housing, Fire and Building Codes).

(d) Nothing in this Section shall prevent the landlord from providing an additional occupant with written notice as provided under Section 6.14 that the occupant is not an original tenant as defined in Section 6.14(a) and that when the last original tenant vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

(e) A landlord's unreasonable refusal to consent to a tenant's written request for the addition to the unit of a tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of the addition of the spouse or domestic partner of a tenant, subject to subsections 6.15D(c)(i)-(vi) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

(f) In the event the landlord withholds consent to a tenant's request for an additional person under subsections 6.15D(c)(i)-(vi) above, either the landlord or the tenant may file a petition with the Board to determine if the landlord's withholding of consent was reasonable.

(g) Any petition filed under subsection 6.15D(e) or (f) shall be expedited.

Proposed additions to Section 6.15A(b) and Section 6.15B(a) are underlined:

Section 6.15A Subletting and Assignment—Where Rental Agreement Includes an Absolute Prohibition Against Subletting and Assignment

This Section 6.15A applies only when a lease or rental agreement includes an absolute prohibition against subletting and assignment.

(a) For agreements entered into on or after May 25, 1998, breach of an absolute prohibition against subletting or assignment may constitute a ground for termination of tenancy pursuant to, and subject to the requirements of, Section 37.9(a)(2) and subsection (b) below, only if such prohibition was adequately disclosed to and agreed to by the tenant at the commencement of the tenancy. For purposes of this subsection, adequate disclosure shall include satisfaction of one of the following requirements:

(1) the prohibition against sublet or assignment is set forth in enlarged or boldface type in the lease or rental agreement and is separately initialed by the tenant; or

(2) the landlord has provided the tenant with a written explanation of the meaning of the absolute prohibition, either as part of the written lease or rental agreement, or in a separate writing.

(b) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant (exclusive of any additional occupant approved under Ordinance Section 37.9(a)(B)(2)), then the replacement of one or more of the tenants by an equal number of tenants, subject to subsections (c) and (d) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

Section 6.15B Subletting and Assignment—Where Rental Agreement Contains a Clause Requiring Landlord Consent to Subletting and Assignment

This Section 6.15B applies only when a lease or rental agreement includes a clause requiring landlord consent to assignment or subletting.

(a) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant (exclusive of any additional occupant approved under Ordinance Section 37.9(a)(B)(2)), then the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (b) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
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STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
March 29, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

MAR 25 2005

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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A. 1885 Bayshore #B

AL050028

The landlord appeals the decision granting a claim of decreased housing services, claiming non-receipt of the Notice of Hearing.

B. 355 Serrano Dr. #7-G

AT050041

The tenant appeals the decision granting rent increases based on increased operating expenses.

C. 501 Oak St., Apts. 1 & 6

AL050038

The landlord appeals the decision granting decreased housing claims made by the tenants in two units.

D. 467 Waller St.

AT050030

The tenants appeal the decision partially granting claims of decreased housing services.

E. 382A Noe

AL050029



The landlord appeals the decision granting claims of decreased housing services.

F. 1801 Turk St.

AT050031 thru -37

The tenants in seven units appeal the decision granting certification of capital improvement costs.

G. 100 Font Blvd.

AL050039

The landlord appeals the decision partially granting certification of capital improvement costs.

H. 33 Broderick St.

AL050017 & AT050040
(rescheduled from 3/15/05)

The landlords and tenant appeal a decision granting claims of decreased housing services.

I. 1801 Turk St.

AT050044 thru -50

The tenants in seven units appeal the decision granting rent increases based on increased operating expenses.

VI. Public Hearing

6:30 Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

Water and Sewer Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds (Ordinance §37.3(a)(5)(B))

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City and County of San Francisco



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Residential Rent Stabilization
and Arbitration Board

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, March 29, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

APR 12 2005

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

Vice-President Marshall called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Marshall; Mosbrucker.
Commissioners not Present: Wasserman.
Staff Present: Gartzman; Lee; Wolf.

Commissioner Justman appeared on the record at 6:07 p.m.; Commissioner Mosser arrived at the meeting at 6:09 p.m.; and Commissioner Murphy appeared at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 15, 2005.
(Gruber/Hurley: 4-0)

IV. Remarks from the Public

A. Robert Pender of the Parkmerced Residents' Organization (PRO) reminded the Board that PRO is the oldest continuous tenant organization in San Francisco. Mr. Pender has lived in Parkmerced since 1969. He asked that the Commissioners help the residents of Parkmerced maintain the quiet enjoyment of their units in their remaining years.

V. Consideration of Appeals

A. 1885 Bayshore #B

AL050028



The tenant's petition alleging a decrease in housing services due to the removal of a balcony was granted and the landlord was found liable to the tenant in the amount of \$75.00 per month. The landlord, who failed to appear at the hearing, appeals on the grounds that he did not receive the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Becker/Justman: 5-0)

B. 467 Waller St.

AT050030

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$5,330.00 due to serious habitability defects in the unit. The tenants appeal the decision, apparently maintaining that the rent reductions for inadequate heat and water damage in the unit should have gone back further; and that they proved that the damaged carpet constituted a substantial decrease in housing services.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the issues of the carpet and to determine whether the walk-through scheduled for September 25, 2000 took place and, if so, the appropriate commencement date for the rent reduction granted for inadequate heat. (Marshall/Becker: 5-0)

C. 1801 Turk St.

AT050031 thru -37

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Justman: 5-0)

The landlord's petition for certification of capital improvement costs was granted, in part. The tenants in seven units appeal the decision on the grounds that the portion of the garage space used for commercial purposes, including rented parking spaces, whether used by a building tenant or a non-resident, should be allocated as commercial costs which are borne by the landlord.

MSC: To deny the appeal. (Gruber/Justman: 5-0)

D. 1801 Turk St.

AT050044 thru -50

The landlord's petition for rent increases based on increased operating expenses was granted, resulting in 7% base rent increases. The tenants in seven units appeal the decision on the grounds that the portion of the garage space used for commercial purposes, including rented parking spaces, whether used by a

building tenant or a non-resident, should be allocated as commercial costs which are borne by the landlord.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Justman: 5-0)

MSC: To deny the appeal. (Gruber/Justman: 5-0)

E. 33 Broderick St.

AL050017 & AT050040
(rescheduled from 3/15/05)

The tenant's appeal was filed seventeen days late because the tenant did not receive the Decision through the mail.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$330.00. The landlords appeal, claiming that: the Administrative Law Judge exhibited bias on behalf of the tenant; the tenant's complaints were made in retaliation for the landlords' enforcement of the lease; the doorjamb problem was not substantial; the tenant failed to provide access to the unit, which prevented the landlords from making the repairs; the work was completed prior to the date on the invoice; and there is no evidence of a leak in the bedroom ceiling. The tenant also appeals, asking that the Board reconsider the denial of his claims regarding a faulty mailbox and defective rain gutters.

MSC: To deny both the landlords' and tenant's appeals.
(Becker/Justman: 5-0)

VI. Public Hearing

Ordinance Section 37.9(a)(2)(B) Regarding Additional Occupancy of Family Members

At their meeting on February 1, 2005, the Commissioners passed a motion to put out for Public Hearing proposed amendments to Rules and Regulations Sections 6.15A and B and proposed new Section 6.15D to conform the Rules and Regulations to newly enacted Ordinance Section 37.9(a)(2)(B). This amendment to the Rent Ordinance, proposed by Supervisor Gonzales, allows for specified family members of a tenant and/or domestic partners to occupy the rental unit notwithstanding a lease provision limiting the number of occupants if the landlord has unreasonably denied the tenant's request to add such occupant. Proposed

new Rules Section 6.15D outlines consent procedures modeled after the consent procedures for subletting contained in Rules Sections 6.15A and B, per the intent of the Board of Supervisors, modified to accommodate family situations. At the meeting on February 15, 2005, the Board voted out for Public Hearing additional language providing for a decrease in services remedy for tenants whose landlord has unreasonably withheld consent to a family member or domestic partner. At the meeting on March 1, 2005, the Board voted out additional language which would allow a landlord or tenant to request a Rent Board determination of whether a landlord's withholding of consent for an additional occupant was reasonable, and providing that any petition for such a determination or for a decreased housing service under this Section shall be expedited.

A Public Hearing on the proposed amendments was convened at 6:35 p.m. Twenty-one individuals addressed the Board, as follows below:

1. Landlord Andrew Long said that the language should specify that it must be a relative of the original tenant, and not of a subtenant or other occupant. Mr. Long speculated that the Ordinance could be used by "apartment hunters" who intend to move in several relatives, and asked that the Board prohibit this during the first twelve months of tenancy.
2. Landlord Leslie Will said that he has always picked his tenants carefully and has always had a compatible group. Mr. Will sees "nothing but problems" with the legislation, including increased costs. Mr. Will wondered how a landlord verifies a domestic partnership and said that five days isn't long enough for a landlord to conduct the necessary research.
3. Landlord Ruth Wheeler said that landlords have to live up to their rental agreements, but this legislation allows tenants to violate their contracts. Ms. Wheeler believes that the amendments force landlords who live in their buildings to take in strangers, and asked that the Board set the "strictest parameters possible."
4. Landlord Jeanne Sonnenblick told the Board that she rented to what seemed like a nice tenant, but other tenants subsequently moved in who "trashed the place." Ms. Sonnenblick hopes that landlords will be able to enforce all rights under their leases and feels that additional "Gonzales" tenants should be subject to Just Cause eviction. Ms. Sonnenblick concluded by saying that being forced to provide more services without compensation is unconstitutional.
5. Landlord David Ferguson admitted that the Board can't get rid of this law, but said that it's a "bad law." Mr. Ferguson is a schoolteacher whose tenants make more money than he does, and he "hasn't broken even" in five years. Mr. Ferguson believes that people will "break this law right and left."

6. Ted Lowenberg, President of the Small Property Owners of San Francisco, believes that the Board has the option of amending the Rules to allow landlords to pass on the additional costs he believes will be incurred: he suggested a 33% rent increase for an additional occupant. Mr. Lowenberg analogized that you cannot take additional riders onto Muni for free. He speculated that "a half dozen folks could move in" under this law," and said that a rent reduction when there's no reduction in services is "ludicrous."

7. Landlord David Brownell was worried about increased costs without compensation, since "costs go up faster than rents." Mr. Brownell said that he is already subsidizing his tenants at the rate of \$18,000/year; he doesn't want to take on his lawyer as a dependent as well. Mr. Brownell also asked that the Commissioners "keep the regulations simple."

8. Landlord Alex Beck said that she does all the work on the building herself but, with health problems, this is all that she can handle. Added tenants equal more work, for which she feels she should be compensated.

9. Landlord Bill Spencer asked whether the landlord has fourteen or five days to vet an application, and said that five days is inadequate. Mr. Spencer feels that an increase in work accompanies additional occupants, and there should be a provision to recoup costs; that Gonzales occupants shouldn't be eligible for compensation for OMI or Ellis evictions if they haven't resided in the unit for at least a year; and that a landlord should be able to terminate the tenancy if a Gonzales occupant violates the lease.

10. Landlord Karen Crommie has no problem with a tenant bringing in a spouse or domestic partner, which she feels is someone's right, and the problem the legislation was supposed to address. Ms. Crommie suggested that criteria to prove the relationship be established; only the original tenant should be able to bring in additional occupants; and there should be a minimum period of time before a tenant is allowed to bring in additional occupants, even if it's only six months. Ms. Crommie also thanked the Board for all their unpaid hard work.

11. Landlord John Waldichuk feels that the legislation waives or dilutes his rights as a housing provider, and promotes the "victimization" of tenants. Mr. Waldichuk told the Board that "hundreds" of units are being kept off the market because landlords will refuse to provide housing to tenants not of their choosing. He believes he should be able to examine a tenant's creditworthiness and character, and asked that what is considered "unreasonable" be spelled out. Mr. Waldichuk said that since the rent is reduced when services decrease, it should increase when additional services are provided.

12. Landlord John Petric asked how the Board of Supervisors could pass legislation that requires increased occupancy without an increase in rents. Mr. Petric feels that the members of the Board of Supervisors don't even attempt to be fair because there are more tenants than landlords in San Francisco, and they are only interested in garnering more votes. Mr. Petric said that the increase in Ellis evictions is attributable to the Board of Supervisors, because the only way to share in escalating property values is to Ellis and sell the building as TICs.

13. Michelle Horneff-Cohen of the Professional Property Management Association told the Board that she understands that the regulations are a directive from the Board of Supervisors. Ms. Horneff-Cohen asked whether a Gonzales tenant is being made an original occupant if a landlord can only check for creditworthiness if the occupant is liable for rent. She also wondered about additional occupants who are under the age of eighteen.

14. Landlord Kurt Posey told the Board he gave a tenant a \$125 break in the rent because he wanted only one occupant in the unit. Mr. Posey is afraid that the tenants downstairs might not like it if there are additional tenants in the upstairs unit, and believes it makes the unit less marketable. Mr. Posey said that this is just one more reason why landlords won't want to rent anymore, because the building is worth more vacant. Mr. Posey is also a tenant and said that he feels bound by the terms of his lease.

15. Tenant Robert Pender told the Board that when he first applied for an apartment at Parkmerced, Metropolitan Life had a policy of no more than one child in a two-bedroom apartment. Mr. Pender said he went to the ACLU and got this policy changed. Mr. Pender encouraged the Board to let tenants live in apartments with their extended families.

16. Tenant David Lowe said that there are processes in place for landlords to recover additional expenses. Mr. Lowe had requested permission for his boyfriend to move in to his unit. His landlord gave her consent but only at a higher rent; the parties were unable to agree on an amount. He has since married his partner and the landlord has refused consent on the grounds that the Gonzales legislation is unconstitutional. Mr. Lowe's spouse moved in on March 1st, and his landlord is no longer accepting his rent.

17. Janan New of the San Francisco Apartment Association told the Board she was not there to blame them for the passage of an illegal law. Ms. New said that her organization is not offering a "fix" because a lawsuit is coming.

18. Tenant Genevieve Callejo said she was "thrilled" that the tenants present had landlords they could communicate with. Ms. Callejo lives at Parkmerced, where she said that existing tenants are being "inundated" with

students who party all night long, and where there are as many as nine people in an apartment.

19. Tenant Heather Newbow told the Board that she got married after living in her unit for twenty years. Her lease says the unit is for one person only, and her "extremely rich" landlord would not let her husband move in. Ms. Newbow said that she cannot afford to move and can only afford her apartment because of rent control. She thanked the Commissioners for their "care, concern and work."

20. Steven Shubert of the Tenants' Union asked that the Board adopt the language incorporating a decrease in services remedy, since the legislation is currently only an eviction protection. Mr. Shubert depicted the legislation as "moderate and sensible" because there are landlords who will unreasonably withhold consent. Mr. Shubert said that tenants need an option besides court, which is "high stress" and expensive.

21. Ted Gullickson of the Tenants' Union told the Board that the proposed regs. are "good language" which does what the Board of Supervisors intended. Mr. Gullickson said that passthroughs for landlords are not on the table; that tenants need an avenue besides the courts; and asked that the Board approve the proposed regulations "as is."

The Public Hearing concluded at 7:20 p.m. After a brief discussion, the Board passed the following motion:

MSC: To pass proposed new Rules and Regulations Section 6.15D and amendments to Sections 6.15A and 6.15B as drafted.
(Becker/Marshall: 3-2; Gruber, Murphy dissenting)

The new regulations read as follows:

Section 6.15D Additional Family Members—Where Rental Agreement Limits the Number of Occupants or Limits or Prohibits Subletting

(a) This Section 6.15D applies when a lease or rental agreement includes a clause limiting the number of occupants or limiting or prohibiting subletting or assignment, and a tenant who resides in the unit requests the addition of the tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or the domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or the spouse or domestic partner of the tenant.

(b) If the tenant makes an initial written request to the landlord for permission to add a person specified in subsection 6.15D(a) above, and the landlord fails to respond in writing within fourteen (14) days of actual receipt of written notice, the tenant's request for the additional person is deemed approved pursuant to Ordinance Section 37.9(a)(2)(B).

(c) The tenant's inability to obtain the landlord's consent to the addition of a person specified in subsection 6.15D(a) above shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the additional person is deemed approved pursuant to subsection (b) above or where the landlord has unreasonably withheld consent to such additional person. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has notified the landlord of the addition of a minor child, or if the additional person is not a minor child, the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to the additional person's occupancy of the unit, and stated the relationship of the person to the tenant;

(ii) The additional occupant, if requested by the landlord, has completed the landlord's standard form application or provided sufficient information to allow the landlord to confirm the relationship of the person to the tenant and to conduct a typical background check, including references and background information; provided, however, the landlord may request credit or income information only if the additional person will be legally obligated to pay some or all of the rent to the landlord;

(iii) The tenant has provided the landlord five (5) business days to process the additional occupant's application;

(iv) The additional occupant meets the regular reasonable application standards of the landlord, except that creditworthiness may be the basis for refusal of the tenant's request for an additional occupant only if and when the additional occupant will be legally obligated to pay some or all of the rent to the landlord;

(v) The additional occupant, if requested by the landlord, has agreed in writing to be bound by the current rental agreement between the landlord and the tenant.

(vi) With the additional occupant, the total number of occupants does not exceed the lesser of (a) two persons per studio rental unit, three per one-bedroom unit, four per two-bedroom unit, six per three-bedroom unit or eight per four-bedroom unit, or the number of occupants permitted under state law and/or other local codes (e.g., Planning, Housing, Fire and Building Codes).

(d) Nothing in this Section shall prevent the landlord from providing an additional occupant with written notice as provided under Section 6.14 that the occupant is not an original tenant as defined in Section 6.14(a) and that when the last original tenant vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

(e) A landlord's unreasonable refusal to consent to a tenant's written request for the addition to the unit of a tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of the addition of the spouse or domestic partner of a tenant, subject to subsections 6.15D(c)(i)-(vi) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

(f) In the event the landlord withholds consent to a tenant's request for an additional person under subsections 6.15D(c)(i)-(vi) above, either the landlord or the tenant may file a petition with the Board to determine if the landlord's withholding of consent was reasonable.

(g) Any petition filed under subsection 6.15D(e) or (f) shall be expedited.

**Section 6.15A Subletting and Assignment—Where Rental Agreement Includes
an Absolute Prohibition Against Subletting and Assignment**

This Section 6.15A applies only when a lease or rental agreement includes an absolute prohibition against subletting and assignment.

(a) For agreements entered into on or after May 25, 1998, breach of an absolute prohibition against subletting or assignment may constitute a ground for termination of tenancy pursuant to, and subject to the requirements of, Section 37.9(a)(2) and subsection (b) below, only if such prohibition was adequately disclosed to and agreed to by the tenant at the commencement of the tenancy. For purposes of this subsection, adequate disclosure shall include satisfaction of one of the following requirements:

(1) the prohibition against sublet or assignment is set forth in enlarged or boldface type in the lease or rental agreement and is separately initialed by the tenant; or

(2) the landlord has provided the tenant with a written explanation of the meaning of the absolute prohibition, either as part of the written lease or rental agreement, or in a separate writing.

(b) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant (exclusive of any additional occupant approved under Ordinance Section 37.9(a)(B)(2)), then the replacement of one or more of the tenants by an equal number of tenants, subject to subsections (c) and (d) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

**Section 6.15B Subletting and Assignment—Where Rental Agreement Contains a Clause
Requiring Landlord Consent to Subletting and Assignment**

This Section 6.15B applies only when a lease or rental agreement includes a clause requiring landlord consent to assignment or subletting.

(a) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant (exclusive of any additional occupant approved under Ordinance Section 37.9(a)(B)(2)), then the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (b) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

V. Consideration of Appeals (cont.)

F. 100 Font Blvd.

AL050039

The landlord's appeal was filed one day late because of a calendaring mistake on the part of the landlord's attorney.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Justman: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Henderson/Justman: 5-0)

The landlord's petition for certification of capital improvement costs to 57 of 153 units was granted, in part, resulting in a monthly passthrough in the amount of \$8.41. On appeal, the landlord argues that: the claimed labor costs were proved and should have been fully certified; the woodwork and mirrors in the lobby provide benefit to the tenants and should be certified; the costs of plants and sod have been certified in other Rent Board decisions; labor costs associated with irrigation and landscaping do not constitute repair and maintenance; the plumbing replacement constitutes capital improvement work; stripping, sealing and regraining work is not routine repair and maintenance, nor is the replacement of seats, cushions, mirrors, replacement of directional signs, and irrigation pipelines; and union labor requires that different trades perform different tasks, regardless of the cost to the owner.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record only to certify the cost of the replacement of seat and back cushions and covering for the center post of the circular seating area in the lobby; to deny the appeal as to all other issues. (Justman/Henderson: 3-2; Gruber, Murphy dissenting)

G. 355 Serrano Dr. #7-G

AT050041

The tenant's appeal was filed approximately two and one-half years late because at the time the tenant filed a substantive appeal of the decision, he mistakenly assumed that the representatives assisting him had included a hardship claim.

MSC: To find good cause for the late filing of the appeal.
(Justman/Marshall: 5-0)

The landlord's petition for rent increases based on increased operating expenses in this multi-unit complex was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Marshall: 5-0)

H. 501 Oak St., Apts. 1 & 6

AL050038

Two tenant petitions alleging decreased housing services were granted and the landlords were found liable to both tenants in the amount of \$200 per month for loss of garage spaces and \$40 per month for one tenant's loss of storage space. The landlord appeals, claiming that: the tenants did not pay additional rent for the additional housing services; the tenant in unit #1 accepted the landlord's rent reduction, which was a lower amount; the tenant in unit #6 failed to provide the landlords with access to his storage space; and both tenants have used the services for short periods of time since they were taken away.

MSC: To deny the appeal. (Gruber/Becker: 5-0)

I. 382A Noe

AL050029

The landlord's appeal was filed three days late because the landlord, who failed to attend the hearing due to a calendaring mistake, was confused when she received the decision and spent time calling City agencies and trying to clarify her options.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Gruber: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Gruber/Justman: 5-0)

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$990.00 due to ineffective weatherproofing of windows and doors in the unit, a plumbing backup and a broken window. On appeal, the landlord claims that all of the repair problems have been abated; and the tenants do not call property management when there is a problem, but contact City agencies instead.

MSC: To deny the appeal. (Murphy/Marshall: 5-0)

VII. Communications

In addition to correspondence concerning a case on the calendar, the Commissioners received a copy of the Notice of Public Hearing.

VIII. Director's Report

Acting Executive Director Delene Wolf reminded the Commissioners that their Statements of Economic Interest are due on April 1st. She also told the Board that a Writ has been filed challenging the legislation introduced by Supervisor Peskin and passed by the Board of Supervisors increasing the amount of Ellis relocation payments.

IV. Remarks from the Public (cont.)

B. Laura Traveler of PRO told the Board that, in the case at 100 Font (AL050039), the Administrative Law Judge repeatedly asked the landlord for a breakdown of costs. Ms. Traveler said that the landlord at Parkmerced has a track record of not providing requested documentation in capital improvement cases, and has consistently gotten away with not having sufficient evidence. Ms. Traveler also alleged that tenants are being asked to pay for the landlord's "aesthetic choice."

IX. New Business

Water and Sewer Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds (Ordinance §37.3(a)(5)(B))

Senior Administrative Law Judge Sandy Gartzman informed the Board that water bonds related to the passage of Proposition A in November 2002 are being issued and resulting increases in water bills will occur as of July 1st. Landlords are allowed to pass through to tenants 50% of the increase in their water bills that is attributable to the issuance of these water system improvement bonds, and can do so every month. Staff will develop a worksheet for calculation of the allowable passthrough, and also make a recommendation to the Board as to whether Rules and Regulations will be necessary.

X. Calendar Items

April 5, 2005 - NO MEETING

6:30 April 12, 2005

4 appeal considerations (including 1550 Bay St.)

Old Business: Water & Sewer Bill Increase Passthroughs

New Business: Acting Director Appointment

XI. Adjournment

Vice-President Marshall adjourned the meeting at 8:40 p.m.

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, 6:30 p.m.,
April 12, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

APR 12 2005

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04-12-05A10:18

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1033 Guerrero AL050042

The landlord appeals the decision determining liability for rent overpayments.

B. 1550 Bay St. AL050043; AT050052 thru-0108

The landlord and fifty tenants appeal the decision partially certifying capital improvement costs; forty tenants appeal on substantive grounds only, ten tenants appeal on substantive grounds as well as claiming financial hardship and four tenants appeal on the grounds of financial hardship only.

C. 462-466 Haight St. AL050051

The landlord appeals the decision determining that the unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

D. 1416 Grant Ave., Unit #24 AL050109



The landlord appeals the decision determining that the unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business

PUBLIC EMPLOYEE APPOINTMENT

Consideration of Whether to Approve the Chair Wasserman's Appointment of Delene Wolf as Acting Executive Director of the Residential Rent Stabilization and Arbitration Board

- X. Calendar Items
- XI. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, April 12, 2005 at 6:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:35 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Justman; Marshall; Mosbrucker; Murphy;
Wasserman.
Commissioners not Present: Mosser.
Staff Present: Gartzman; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of March 29, 2005.
(Gruber/Justman: 5-0)

IV. Consideration of Appeals

A. 1033 Guerrero

AL050042

The tenant filed a petition requesting a determination of his lawful base rent. The Administrative Law Judge found a rent increase from \$875.00 to \$1,100.00 to be null and void, and the landlords were found liable to the tenant in the amount of \$10,332.00. On appeal, the landlords maintain that: the calculation of rent overpayments is incorrect, since the tenants failed to pay rent for several months; the prior owner, a financial institution, accepted rent at a lower amount but did not waive the right to collect the correct amount at a later date; and the bank sold the property at a trustee sale, and did not bother to contest the amount of rent paid by the tenants.

MSC: To accept the appeal and remand the case to the Administrative
Law Judge to reverse the decision and find that there was no

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APR 29 2005

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permanent rent discount agreed to in April 1993 by former landlord Home Savings. Therefore, the rent amount of \$1,100.00 as of November 1, 1993 constituted a permissible re-setting of the rent; allowable annual increases shall also be calculated from that date forward. (Murphy/Gruber: 5-0)

B. 1550 Bay St.

AL050043; AT050052 thru -0108

The landlord's petition for certification of capital improvement costs in the amount of \$3,093,759.80 was granted in part, and costs of a major remodeling project in the amount of \$1,152,106.27 were certified for passthrough to the tenants in eighty-six units. The landlord and fifty tenants appeal the decision. The landlord asserts that: the landlord's pledge regarding future capital improvement passthroughs removed any need for the landlord to identify specific elements of the work; the Estimator's Report should have been used to certify all costs of the project; benefit to tenants is not a proper standard for denying certification of costs; the failure to certify costs as luxury items is not valid; the landlord is being denied a fair return; the Decision is inconsistent with a prior Decision regarding this property; the bathroom was enlarged to meet handicap requirements; the landlord demonstrated that this building always commanded the highest rents in the neighborhood; the denial of payroll costs for the landlord's employees contravenes the Ordinance and applicable law; the failure to certify the cost of the laundry room move is not valid; and the failure to certify the cost of the landlord office is not in accordance with the Ordinance. Forty-five tenants jointly appeal the decision on the grounds that the approved passthrough should only be retroactive to the date the first facially adequate petition was filed by the landlord; and a payment schedule should be established for the arrearages owed by the tenants. One tenant in unit #430 incorporates the arguments raised in the joint appeal and also asserts that Proposition H should be applied to preclude any obligation of the tenant to pay capital improvement costs. Ten tenants appeal the decision on the grounds of financial hardship: six are parties to the joint appeal (unit numbers A105, B318, B320, B331, B412 and D249) and four appeal on the grounds of hardship only (unit numbers A305, B416, C135 and D358).

MSC: To recuse Commissioner Murphy from consideration of these appeals. (Gruber/Justman: 5-0)

MSC: To accept the appeal of the tenant in unit #A105 and remand the case for a hearing on the tenant's claim of financial hardship. (Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #B318 and remand the case for a hearing on the tenant's claim of financial hardship. (Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #B320 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #B331 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #B412 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #D249 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #A305 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #B416 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenants in unit #C135 and remand the case for a hearing on the tenants' claim of financial hardship. (Gruber/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #D358 and remand the case for a hearing on the tenant's claim of financial hardship.
(Gruber/Becker: 5-0)

MSC: To accept the tenants' joint appeal and remand the case to the Administrative Law Judge to make the capital improvement passthroughs effective as of June 6, 2003, when the Second Amended Petition was filed; and to establish a repayment schedule for arrearages owed at the following rate: on or before June 6, 2005, the tenants shall pay a lump sum in the amount of one year's worth of the certified monthly passthrough for their unit, with the balance owing to be paid in equal installments over a 12-month period, along with the current certified monthly passthrough, commencing June 6, 2005.
(Justman/Gruber: 5-0)

MSC: To accept the appeal of the tenant in unit #430 and remand the case to the Administrative Law Judge to make the capital improvement passthrough effective as of June 6, 2003, when the Second Amended Petition was filed; and to establish a repayment schedule for arrearages owed at the following rate: on or before June 6, 2005, the tenant shall pay a lump sum in the amount of one year's worth of the certified monthly passthrough for his unit, with the balance owing to be paid in equal monthly installments over a 12-month period, along with the current certified monthly passthrough, commencing June 6, 2005. The tenant's appeal is denied as to the applicability of Proposition H. (Justman/Gruber: 4-1; Marshall dissenting)

MSC: To deny the landlord's appeal. (Marshall/Becker: 3-2; Gruber, Hurley dissenting)

C. 462-466 Haight St.

AL050051

The landlord filed a petition seeking a determination pursuant to Rules Sections 1.21 and 6.14, and the Costa-Hawkins Rental Housing Act. The petition was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence. The landlord appeals, claiming that: the Decision is inconsistent with the Findings of Fact and evidence in the case; the tenant is currently living in Santa Barbara, with no exact plans to return to San Francisco; and the Administrative Law Judge exhibited bias on behalf of the tenant.

MSC: To accept the appeal and remand the case for a hearing to determine if the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21 as of September 30, 2005; any proposed rent increase shall be stayed in the interim. Should it be determined that the tenant is not a "Tenant in Occupancy" as of September 30, 2005, and the landlord has served the tenant with a notice of rent increase pursuant to Section 1.21, the tenant shall owe the landlord the amount of the noticed rent increase retroactive to the effective date of the landlord's notice. (Gruber/Murphy: 5-0)

D. 1416 Grant Ave., Unit #24

AL050109

The landlord's petition seeking a determination as to whether the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21 was denied, as the Administrative Law Judge that the subject unit is the tenant's principal place of residence. On appeal, the landlord argues that: there is no evidence that the

tenant withdrew a homeowner's exemption claim on another property, which remains in effect until withdrawn; the subject property is not an investment for the tenant, since his fiancée is the beneficiary of his trust; and the tax schedules provided by the tenant are incomplete and of little use in determining whether the tenant derives any tax benefit from his real property interests.

MSC: To deny the appeal. (Becker/Marshall: 4-1;
Gruber dissenting)

V. Communications

The Commissioners received a copy of the office workload statistics for the month of February and corrected statistics for the month of January. The Board also received a copy of the Department's Annual Report on Eviction Notices.

VI. Director's Report

Acting Executive Director Delene Wolf went over the Annual Report on Eviction Notices with the Board. While the number of notices filed with the Department this year represents an 8.9% decrease over last year's filings, notices based on withdrawal of the unit (Ellis) increased 59.3% and unapproved subtenant evictions increased 50%.

VII. New Business

MSC: To approve the Chair Wasserman's appointment of Delene Wolf as Acting Executive Director of the Residential Rent Stabilization and Arbitration Board. (Murphy/Becker: 5-0)

VIII. Calendar Items

April 19th & 26th, 2005 - NO MEETINGS

May 3, 2005

7 appeal considerations

Old Business: Water & Sewer Bill Increase Passthroughs

IX. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF

ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
May 3, 2005

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1221 Folsom St.

AT050115

The Master Tenant appeals the decision granting a claim of rent overcharges pursuant to Rules and Regulations Section 6.15(c)(3).

B. 2124 Hyde St. #3

AL050110

The landlord appeals the remand decision denying certification of the cost of a third heater in the unit.

C. 909 Wisconsin, Unit #1

AT050114

The tenants appeal the decision denying some of their decreased housing services claims.

D. 1445 Waller #1

AT050113

The tenant appeals the decision denying a claim of decreased housing services due to excessive noise from neighboring units.

APR 29 2005

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04-29-05A11115 ACT

E. 917 Folsom #203

AL050111

The landlord appeals the decision granting a claim of unlawful rent increase.

F. 1301 – 31st Ave.

AT050112

The tenant appeals the remand decision finding that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

G. 1167 Bush #506

AT050117

The tenant appeals the decision determining her proper base rent and discontinuing a utility passthrough.

VI. Communications

VII. Director's Report

VIII. Old Business

Water and Sewer Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds (Ordinance Section 37.3(a)(5)(B))

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, May 3, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

MAY 13 2005

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I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Marshall; Mosbrucker; Mosser;
Wasserman.
Commissioners not Present: Murphy.
Staff Present: Gartzman; Wolf.

Commissioner Justman appeared on the record at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 12, 2005.
(Gruber/Hurley: 5-0)

IV. Remarks from the Public

A. Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), read a letter he wrote to Bert Polacci, General Manager of Parkmerced.

V. Consideration of Appeals

A. 1221 Folsom St.

AT050115

Two subtenants filed petitions alleging that the Master Tenant charged them more than a proportional share of the rent. The petitions were granted and the Master Tenant was found liable to the subtenants in the amounts of \$1,699.06

and \$1,431.22. The Master Tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the Master Tenant's claim of financial hardship and to establish a repayment plan, if appropriate. (Gruber/Hurley: 5-0)

B. 2124 Hyde St. #3

AL050110

The landlord's petition for certification of the costs of the installation of electric heaters in six units was granted. The tenants in one unit appealed, asserting that they should not have to pay for the cost of a 2000 watt third heater in their unit, since it was unnecessary. The Board accepted the tenants' appeal and remanded the case to the Administrative Law Judge on the record to omit the cost of the third heater in the tenants' unit from the certified passthrough. The landlord appeals the remand decision, maintaining that: the landlord pulled a permit for a supplemental rather than replacement heating system because he wanted to safeguard the tenants' need for heat during the conversion process; the third heater was installed at a higher cost to the owner and at the tenants' request; and the addition of the third heater exceeded the City's wattage requirements for the unit.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

C. 909 Wisconsin, Unit #1

AT050114

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$1,750.00. The tenants appeal, claiming that: the rent reductions granted were inadequate; the Decision was inconsistent; evidence was provided which proved the tenants' claims regarding water damage and termite infestation; and the landlord admitted at the hearing that there are no smoke alarms in the unit.

MSC: To recuse Commissioner Mosbrucker from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the smoke detectors; a hearing will be held only if necessary. To deny the appeal as to all other issues. (Gruber/Hurley: 5-0)

D. 1445 Waller #1

AT050113

The tenant's petition alleging decreased housing services due to unreasonable noise from the neighboring units was denied. On appeal, the tenant claims that he proved that: the landlord made verifiable promises that the unit was quiet prior to the tenant's moving in; and the tenants in the unit to his left and above make levels of noise beyond that normally associated with apartment living.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

E. 917 Folsom #203

AL050111

The tenants' petition alleging an unlawful increase in rent was granted and the landlords were found liable to the tenants in the amount of \$5,200.00. The landlord appeals, asserting that: the Administrative Law Judge erred in finding that the base rent for the premises was \$400 rather than \$866.66 per month; there was no increase in the base rent but, rather, a reduction from \$866.66 to \$800.00 per month; the lease did not commence on November 1, 2003 because the tenants failed to pay the required security deposit; the rent receipts show that the \$400 rent payment was for a one-half month period, and 3-day notices were issued for payment of the remainder; and the landlords' liability should be limited to the time period after they became owners of the property.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Hurley/Marshall: 5-0)

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Hurley dissenting)

F. 1301 – 31st Ave.

AT050112

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the tenant is a "Tenant in Occupancy" at the subject unit. The landlord appealed and the Board remanded the case to vacate the decision and find that the tenant is not a "Tenant in Occupancy" within the meaning of Rules Section 1.21. The tenant appeals the remand decision, arguing that: her actions from July 1997 to June 2001 should not be taken into account since Section 1.21 of the Regulations was not yet in effect; her absence from June 2001 to June 2005 is a reasonable temporary absence because she has been attending school; the other indicia of her residing in Florida are the result of her living there while attending school; and the landlord should have been required to act in good faith to notify the tenant and resolve the issue before seeking a 1.21 determination.

MSC: To deny the appeal. (Gruber/Hurley: 3-2; Becker, Marshall dissenting)

G. 1167 Bush #506

AT050117

The tenant's petition requesting a determination as to the proper base rent and whether the utility passthrough was correctly calculated was granted in part and denied in part. The lawful base rent was determined to be \$420.55 and a utility passthrough originally imposed on December 1, 2001 was discontinued. The tenant appeals, claiming that: the Decision is in error because the rent increases were based on a defective notice which mis-stated the base rent and a notice that was "non-existent."

MSC: To deny the appeal. (Gruber/Hurley: 3-2;
Becker, Marshall dissenting)

VI. Communications

The Board received the following communications:

A. A copy of an article in the April 27th Examiner regarding a Superior Court ruling by Judge James Warren finding that recently passed increased relocation payments violated the spirit of the Ellis Act.

B. A letter from Mayor Gavin Newsom to members of the Building Inspection Commission informing them that harassing or discriminatory comments are not to be tolerated at future public meetings.

C. A Memorandum from Senior Administrative Law Judge Sandy Gartzman regarding implementation of Ordinance Section 37.3(a)(5)(B), regarding the passthrough of water bill rate increases attributable to the issuance of 2002 Proposition A bonds.

VII. Director's Report

Acting Executive Director Wolf discussed communication from staff to the Commissioners, and it was agreed that e-mail is preferable to fax, whenever possible. Ms. Wolf agreed to look into the possibility of acquiring a scanner for the transmission of documents not generated by the agency. Ms. Wolf also informed the Board that on April 25, 2005, Judge Warren ruled that the recent amendment to the Rent Ordinance regarding relocation payments to all tenants evicted under the Ellis Act violated the Ellis Act since the cost of relocation could potentially prevent an owner from going out of the rental business. The City has sixty days to appeal the court's ruling. If the court's ruling that the amended relocation ordinance is illegal is upheld, then the prior relocation ordinance limiting relocation payments to low-income households and elderly and disabled tenants would be back in effect.

VIII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds (Ordinance Section 37.3(a)(5)(B))

Water bonds related to the passage of Proposition A in November 2002 are currently being issued and resulting increases in water bills will occur as of July 1st. Landlords are allowed to pass through to tenants 50% of the increase in their water bills that is attributable to the issuance of these water system improvement bonds, and can do so every month. Senior Administrative Law Judge Sandy Gartzman went over a Memorandum she prepared raising questions and implementation issues for the Board's consideration. Commissioner Justman was concerned that requiring that the passthrough be imposed monthly would place too great an administrative burden on landlords; while allowing it to be "banked" for a considerable period of time could result in large increases to tenants. After discussion, the Board preliminarily decided as follows: landlords may impose the passthrough monthly; alternatively, landlords may impose the passthrough on an annual basis, on the tenant's anniversary date, except for a 6-month passthrough which may include bills for the 6-month period commencing on July 1, 2005, with the passthrough to be imposed annually thereafter; if a tenant moves in during a calendar year, the landlord may collect a pro-rata share of the passthrough based on the number of months in the year the tenant resides in the unit; tenants can file a hardship application for relief from the passthrough and the Administrative Law Judge shall determine whether the passthrough has been correctly calculated before deciding whether the passthrough creates a financial hardship for the tenant; upon noticing the passthrough the landlord does not have to provide copies of all the water bills, but the notice shall state that the bills are available upon request; and a water bond passthrough cannot be imposed during the term of a fixed term lease, but may be imposed on the anniversary date upon expiration of the lease.

Staff was asked to draft proposed regulations reflecting the above decisions, which will be discussed at a future meeting and put out for Public Hearing.

IV. Remarks from the Public (cont.)

B. Landlord David Patel of the property at 917 Folsom #203 (AL050111) said that the tenants had paid \$200 per week for three months, and were notified that if they wanted to become permanent tenants, the rent would be \$800 per month. Mr. Patel said that the tenants kept moving out because they couldn't come up with the security deposit, and at no point did they pay less than \$800 per month.

C. Robert Pender of PRO said that there are currently two landlords at Parkmerced, and there will possibly be a third. With all the trees, grass and lawn at Parkmerced, Mr. Pender believes that water passthroughs will be a "horrible mess" and he "feels sorry for anyone who is around to see it."

IX. Calendar Items

May 10, 2005 - NO MEETING

May 17, 2005

6 appeal considerations

Old Business: Water Bond Passthroughs

X. Adjournment

President Wasserman adjourned the meeting at 8:00 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
May 17, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

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MAY 13 2005

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05-13-05 A11.07 SL

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 600 Buchanan

AL0501230

The landlord appeals the decision granting a claim of decreased housing services on the grounds of non-receipt of the notice of hearing.

B. 1060 Bush, Apt. 203

AL050116

(re-scheduled from 5/3/05)

The landlord appeals the determination that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

C. 128 Garces & 122 Cardenas

AT050121 & -0122

The tenants in two units appeal the Second Decision on Remand granting 7% base rent increases based on increased operating expenses.

D. 461 Capp St.

AT050118

The tenant appeals the determination that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

E. 824 Hyde St., Apt. No. 7

AT050119

The tenants in one unit appeal the decision granting rent increases based on increased operating expenses.

F. 1124 Filbert

AL050123

The landlords appeal the decision denying their petition for extension of time to do capital improvement work.

VI. Communications

VII. Director's Report

VIII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds
(Ordinance Section 37.3(a)(5)(B))

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



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GAVIN NEWSOM
MAYOR

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

May 12 2005

Tuesday, at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JUN - 3 2005

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I. Call to Order

President Wasserman called the meeting to order at 6:15 p.m.

II. Roll Call

Commissioners Present:

Becker; Gruber; Henderson; Hurley;
Murphy; Wasserman.

Commissioners not Present:

Justman; Marshall; Mosbrucker; Mosser.

Staff Present:

Gartzman; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of May 3, 2005.
(Gruber/Becker: 5-0)

IV. Remarks from the Public

Tenant Julian Lagos of 128 Garces Dr. in Parkmerced (AT050121) told the Board that he believes the fact that the landlord is reducing rents to Section 8 tenants whose subsidies are being reduced constitutes "discrimination," since other Parkmerced tenants are having their rents increased. Mr. Lagos also alleged that: the landlord did not corroborate the commercial square footage measurements they submitted; the individual who conducted the measurements no longer works for the landlord; an 8-acre parcel should have been excluded from the landlord's petition; and the petition was based on increased debt service and property taxes which are write-offs, so it "should have been thrown out."

V. Consideration of Appeals

A. 600 Buchanan

AL050120

The tenant's petition alleging a substantial decrease in housing services was granted. The landlord failed to appear at the hearing. On appeal, the landlord claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Murphy/Henderson: 4-1; Becker dissenting)

B. 1060 Bush, Apt. 203

AL050116
(rescheduled from 5/3/05)

The landlord's petition seeking a determination pursuant to Rules and Regulations Section 1.21 was denied because the Administrative Law Judge found that the tenant is a "Tenant in Occupancy" who is temporarily residing in a convalescent hospital while she recovers from an accident. On appeal, the landlord argues that: the Administrative Law Judge was prejudiced by sympathy and did not apply the facts to applicable law; a stay of 1.3 years in a convalescent facility cannot be equated to hospitalization and the tenant resides there by choice and not out of necessity; there are no plans for the tenant to move back to San Francisco; and the Administrative Law Judge exhibited bias on behalf of the tenant.

MSC: To deny the appeal. (Gruber/Becker: 5-0)

C. 128 Garces Dr. & 122 Cardenas Ave.

AT050121 & -0122

The landlord's petition for rent increases based on increased operating expenses at this multi-unit complex was granted, resulting in 7% base rent increases for most units. The joint appeal of 144 tenants was accepted and remanded for the landlord and tenants to provide square footage information in order to allocate the expenses between the residential and commercial units on a square footage basis. The remand decision affirmed the 7% rent increases. The tenants in two units appealed the remand decision. Their appeals were accepted and remanded to require that the landlord provide additional square footage measurements for laundry rooms and storage areas. The Second Decision on Remand also approved 7% base rent increases for both units. The tenants appeal the Second Decision on Remand, arguing that: the square foot measurement figures submitted by the landlord are unsubstantiated and incomplete; an 8.5 acre vacant lot was sold prior to the close of Year 2 and should not be factored in; the landlord failed to include measurement figures for satellite administrative offices and a dog run; the landlord failed to meet its burden of proof; and the landlord should not be allowed to rely on debt service

and property taxes, which are tax-deductible, to justify rent increases based on increased operating expenses.

MSC: To recuse Commissioner Becker from consideration of these appeals. (Henderson/Murphy: 5-0)

MSC: To deny the appeals of the tenants at 128 Garces Drive and 122 Cardenas Avenue. (Murphy/Gruber: 3-1; Henderson dissenting)

D. 461 Capp St.

AT050118

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was granted and the Administrative Law Judge found that the tenant is not a "Tenant in Occupancy" at the subject unit. The tenant appeals, claiming that: she was inadequately represented by her attorney; and the subtenants in the unit constructively evicted and prevented her occupation of the unit, with the cooperation of the landlord.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

E. 824 Hyde St., Apt. No. 7

AT050119

The landlords' petition for rent increases based on increased operating expenses for 5 of 8 units was granted. The tenants in one unit appeal the decision, arguing that: amended Schedule B of the landlord's petition was not properly served; documentation for all relevant time periods was not provided; and the landlords remain in violation of State and local laws, which should preclude imposition of an O&M increase.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

F. 1124 Filbert

AL050123

The landlords' petition for extension of time to complete capital improvement work was denied because the Administrative Law Judge found that the landlords knew or should have known that the work would require removal of the tenant for more than three months and all necessary permits and a breakdown of the work to be performed were not filed with the petition. The landlords appeal, maintaining that: at the time they gave the Notice to Vacate, their estimate of the amount of time the project would take was reasonable; the landlords believed that the contractor was bound to an earlier start date than turned out to be the case; the contractor's unreliability made it difficult to realistically estimate a revised completion date for the project; the project is currently back on schedule;

all necessary permits were filed for the portion of the work that necessitated displacement of the tenant; and the decision fails to take into account the landlords' good faith efforts to limit the amount of time the tenant will be displaced, as well as unforeseen circumstances.

MSC: To deny the appeal with no finding of bad faith on the part of the landlord. (Gruber/Murphy: 5-0)

VI. Director's Report

Acting Executive Director Delene Wolf informed the Board that she is investigating the purchase of a scanner to facilitate the e-mailing of documents to them. She also told the Commissioners that an experienced Private Investigator gave a presentation at the last Administrative Law Judge staff meeting in order to enhance staff's knowledge regarding the increasing use of private investigators in 1.21 cases.

VII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds

Discussion of this issue was continued to the June 7th Board meeting.

VIII. Calendar Items

May 24th and 31st, 2005 - NO MEETINGS

June 7, 2005

7 appeal considerations

Old Business: Water System Improvement Bond Passthroughs

IX. Adjournment

President Wasserman adjourned the meeting at 7:00 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF

ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
June 7, 2005

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 469 Greenwich St.

AT050124

The tenant appeals the decision granting certification of capital improvement costs.

B. 2408 Taraval St.

AL050141

The landlord appeals the decision granting claims of decreased housing services and incorrect calculation of a PG&E passthrough.

C. Parkmerced - Block 3

AT050125 thru -0137

The tenants in thirteen units untimely appeal the decision granting certification of a repiping/irrigation project.

D. 242-246 Cole St.

AL050138

The landlord appeals the decision partially granting certification of capital improvement costs.

E. 2201 Pacific Ave. #601

AT050139

JUN - 3 2005

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The tenant appeals the remand decision determining that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

F. 2028 Scott St. #203

AL050140

The landlord appeals the decision denying a rent increase pursuant to Rules Sections 6.14, 6.11 or Costa-Hawkins.

G. 2120 Pacific, Apt. 410

AT050140

The tenants appeal the decision denying claims of unlawful rent increase and decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds
(Ordinance Section 37.3(a)(5)(B))

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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GAVIN NEWSOM
MAYOR

SHARON K. WASSERMAN
PRESIDENT

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, June 7, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

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JUN 20 2005

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JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

Vice-President Marshall called the meeting to order at 6:06 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Justman; Marshall; Mosbrucker; Murphy.
Commissioners not Present: Wasserman.
Staff Present: Gartzman; Wolf.

Commissioner Mosser appeared on the record at 6:11 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 17, 2005.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. Laura Traveler, President of the Parkmerced Residents' Organization (PRO), explained that 13 untimely appeals from tenants of Block 3 were before the Board at this evening's meeting. Ms. Traveler asked that Commissioner Murphy recuse himself from consideration of these appeals because he and landlord representative Bert Pollacci belong to the same organization. Ms. Traveler told the Board that it would be unfair for these tenants to have to pay passthroughs resulting from a petition which the Board had dismissed as having been prematurely filed upon appeal from other tenants in the complex.

V. Consideration of Appeals

A. 469 Greenwich St.

AT050124

The landlord's petition for certification of the costs of repairing a sidewalk to the tenant in one of three units was granted, resulting in a monthly passthrough in the amount of \$36.25. On appeal, the tenant claims not to have received a copy of the petition or the Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Becker/Murphy: 5-0)

B. 2408 Taraval St.

AL050141

The tenants' petition alleging a substantial decrease in housing services and incorrect calculation of a utility passthrough was granted, in part. The landlord was found liable to the tenants in the amount of \$4,405.00 due to loss of a common area living room and lack of heat in the unit, and utility payments in excess of \$15.00 per month were determined to be owing from the landlord to the tenants. The landlord appeals on the grounds of hardship, and also appears to be disputing the ALJ's findings regarding loss of the shared living room, lack of heat, tenant utility payments, and harassment by another tenant in the building and the landlord's pit bull. The landlord also claims that the tenants have failed to pay rent for four months.

MSC: To deny the appeal. (Becker/Gruber: 5-0)

C. Parkmerced – Block 3

AT050125 thru -0137

The appeals of thirteen tenants were filed over seven months late on equitable grounds, explained below.

MSC: To recuse Commissioner Becker from consideration of these appeals. (Henderson/Gruber: 5-0)

MSC: To find good cause for the late filing of the appeals.
(Marshall/Henderson: 5-0)

The landlord's petition for certification of the costs of a repiping/irrigation project was granted, resulting in a monthly passthrough in the amount of \$63.70 to the tenants in 48 of 66 units. The tenants in six units jointly appealed the decision on various grounds. At their meeting on November 23, 2004, the Commissioners accepted the appeals and remanded the case to the Administrative Law Judge to vacate the decision and dismiss the landlord's petition and 23 other pending petitions because the work performed was part of a project involving multiple blocks in the complex that was not completed at the time of filing and therefore the case was not ripe for adjudication. The dismissal was without prejudice to the filing of a single petition for certification of the costs of the entire

repiping/irrigation project. Thirteen tenants now appeal the original decision, arguing that it is unfair and inequitable that they and the tenants in thirteen other units who did not appeal the original decision should have to pay the passthrough, when the landlord's petitions have been dismissed and no other tenants in the complex are liable for the passthrough.

MSC: To accept the appeals and remand the case to the Administrative Law Judge to dismiss the petition as to all affected tenants. (Henderson/Marshall: 4-1; Murphy dissenting)

D. 242-246 Cole St.

AL050138

The landlord's petition for certification of capital improvement costs to two of seven units was granted, in part. The landlord appeals the decision only as to the costs certified for exterior painting and new linoleum, where the landlord's actual costs exceeded the amounts determined to be reasonable by the independent estimator hired by the Rent Board, and only the estimator amounts were certified. The landlord argues that Rent Board policy allows for a 5% variance from the estimated value and therefore only the amount over the 5% should be disallowed.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Murphy dissenting)

E. 2201 Pacific Ave. #601

AT050139

The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit was the tenant's principal place of residence. The landlord appealed the decision, and the Rent Board Commissioners voted to vacate the decision and remand the case to the ALJ to find that the tenant is not a "Tenant in Occupancy." The tenant appeals the remand decision, maintaining that: the documentary evidence shows that the subject unit is the tenant's principal place of residence and usual place of return; the fact that the tenant is married, and her husband resides in Sausalito, should not result in her case being decided differently than if she were single; the Ordinance requires that reversal of a decision is only permitted after an appeal hearing; the landlord failed to meet its burden of proof; the tenant never signed the application for the homeowner's property tax exemption her husband takes on the Sausalito property; the tenant is her mother's primary caregiver at the subject unit; and the Commissioners exhibited bias against an alternative living arrangement in reversing the original decision in this case.

MSC: To accept the appeal and schedule a de novo hearing before the Board. Each side will have 30 minutes to present their case: 5 minutes for an Opening Statement; 20 minutes for testimony; and 5 minutes for a Closing Statement. Any additional submissions must be served on the Board and opposing counsel no later than 1 week prior to the scheduled hearing. (Becker/Marshall: 5-0)

F. 2028 Scott St. #203

AL050140

The landlord's petition seeking a rent increase pursuant to Rules and Regulations Sections 6.14, 6.11 or Costa-Hawkins was denied. The Administrative Law Judge found that the tenant was an approved subtenant who has occupied the unit since 1993, no 6.14 notice was timely served, and the rent for the unit was not set low at the time of occupancy by the original tenant. The landlord appeals, asserting that: the tenant moved in as a caregiver, and not as a roommate; the tenant's application was edited by the landlord to make clear that she could reside in the unit as an "occupant," and not as a tenant, which is equivalent to a 6.14 notice; the tenant's version of events is not credible, nor is her documentary and hearsay evidence; and no special relationship is required to justify a comparables increase, because the rent in this case was set low for "some other reason."

MSC: To deny the appeal. (Becker/Marshall: 4-1; Murphy dissenting)

G. 2120 Pacific, Apt. 410

AT050140

The tenants' petition was denied as to the claim of an unlawful rent increase because the Administrative Law Judge found that the tenants changed units on their own initiative and therefore the initial rent for the new unit could be set at market. Claims of decreased housing services were denied because it was found that the landlord remedied the problems shortly after receiving notice from the tenants, the tenants failed to provide access to the landlord, or the problem was not substantial. The tenants appeal, claiming that: the move to their current unit was not done at their request but was, rather, the manager's solution to a noise problem emanating from another unit; the landlord should be estopped from changing the terms of the lease for the new unit after the tenants had moved; there was no option to move back to their prior unit at the same terms; and the manager having made certain repairs is proof that the tenants had requested the repairs.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The 2005 edition of the "Good Government Guide, an Overview of the Laws Governing the Conduct of Public Officials," put out by the Office of the City Attorney.

B. An article from the S.F. Chronicle regarding an amendment introduced by Supervisor Peskin requiring term limits for anyone serving on a board, committee or commission created by City Charter (although the Rent Board is not a Charter commission).

C. An article from the Daily Journal regarding the Lingle v. Chevron decision regarding rent control for gas stations in Hawaii.

VII. Director's Report

Acting Executive Director Wolf reported as follows:

A. The Board of Supervisors rejected the conversion of a six-unit North Beach rental building into condominiums because of Section 1386 of the Subdivision Code, which gives the City the power to reject condominium conversions if "evictions have occurred for the purpose of preparing the building for conversion."

B. The Rent Board's budget was approved by the Board of Supervisor's Budget and Finance Committee on June 1st. \$109,000 in cuts recommended by the Budget Analyst was redirected to increased outreach to the Vietnamese and Russian communities and to explore the possibility of televising Rent Board meetings.

C. Sadly, Ms. Wolf informed the Commissioners that prior Tenant Commissioner Shirley Bierly had passed away.

VIII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds

Senior Administrative Law Judge Sandy Gartzman went over proposed notification language to go out on water bills regarding costs attributable to water rate increases resulting from issuance of Water System Improvement Revenue

Bonds authorized at the November 5, 2002 election (Proposition A), which language was approved by the Board. She also walked the Commissioners through proposed regulations she had drafted regarding landlords' right to pass through to tenants 50% of the increase in their water bills attributable to the issuance of these bonds. The draft regulations reflect decisions the Commissioners made at their May 3rd meeting. The Board will review the proposed regulations and discuss them further at the June 21st meeting.

IV. Remarks from the Public (cont.)

B. Robert Pender, Vice-President of PRO, asked several questions regarding the water bill passthroughs and was assured that the Rent Board will be putting out information regarding these passthroughs. Mr. Pender explained that he "wears two hats" since he is a Vice-President of PRO and a founder of the Tenants' Network. Mr. Pender told the Board that tenants "will endure like Londoners under the German blitz and Russians under the siege of Stalingrad."

IX. Calendar Items

June 14, 2005 - NO MEETING

June 21, 2005

8 appeal considerations

Old Business: Water Bond Passthroughs

X. Adjournment

Vice-President Marshall adjourned the meeting at 8:10 p.m.



**NOTICE OF THE REGULAR MEETING OF
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STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
June 21, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

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JUN 20 2005

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CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 830 Sutter #12 AT050150

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1550 Bay St. #D464 AT050147

One tenant appeals the decision certifying capital improvement costs.

C. 248 Golden Gate #E AT050151

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

D. 2367 - 20th Ave. #3 AL050144

The landlord appeals the decision granting rent reductions due to decreased housing services.

E. 134 - 3rd Ave. AT050148

The tenant appeals the decision partially granting claims of decreased housing services.

F. 1044 Pine St. #9

AT050145

The tenant appeals the decision determining that he is not a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21.

G. 440 Davis Ct. #1507

AT050143

The tenant appeals the decision determining that he is not a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21.

H. 2337 Francisco St.

AL050149

The landlord appeals the decision granting a claim of unlawful rent increase.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds
(Ordinance Section 37.3(a)(5)(B))

- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment



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GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, June 21, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

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BARTHOLOMEW MURPHY

I. Call to Order

Commissioner Becker called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Hurley; Mosbrucker; Mosser.
Commissioners not Present: Gruber; Henderson; Marshall; Murphy;
Wasserman.
Staff Present: Gartzman; Wolf.

Commissioner Justman appeared on the record at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 7, 2005.
Mosbrucker/Hurley: (4-0)

IV. Remarks from the Public

Tenant Wayne Cameron of the case at 1044 Pine #9 (AT050145) told the Commissioners that: the subject unit has been his home for 25 years; he is not wealthy and does not have another home; he operates a full-time tax practice out of the apartment; and, since the public schools in San Francisco are deficient, his son lives with his girlfriend in Pacifica and attends school there.

V. Consideration of Appeals

A. 830 Sutter #12

AT050150

The landlord filed two petitions for certification of capital improvement costs, which were granted. One tenant appeals the decisions on the grounds of financial hardship.



MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Mosser: 4-0)

B. 1550 Bay St. #D464

AT050147

The tenant's appeal was filed almost four months late because the tenant was inadvertently omitted from the joint appeal submitted by the tenants in 45 units.

MSC: To find good cause for the late filing of the appeal.
(Mosbrucker/Becker: 4-0)

The landlord's petition for certification of capital improvement costs in the amount of \$3,093,759.80 was granted, in part, and costs of a major remodeling project in the amount of \$1,152,106.27 were certified for passthrough to the tenants in eighty-six units. The tenant appeals the decision on the grounds that the approved passthrough should only be retroactive to the date the first facially adequate petition was filed by the landlord; and a payment schedule should be established for the arrearages owed.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to make the capital improvement passthrough effective as of June 6, 2003, when the Second Amended Petition was filed; and to establish a repayment schedule for arrearages owed at the following rate: on or before August 1, 2005, the tenant shall pay a lump sum in the amount of fourteen months' worth of the certified monthly passthrough for her unit, with the balance owing to be paid in equal installments over a 10-month period, along with the current certified monthly passthrough, commencing August 1, 2005.

C. 248 Golden Gate #E

AT050151

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$22.96. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Mosser: 4-0)

D. 2367 – 20th Ave. #3

AL050144

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$591.25 for broken hallway and bathroom windows. The landlord appeals, claiming that: the

hallway window was painted shut at the inception of the tenancy and does not constitute a reduction in a housing service; the bathroom window is not rotted or in poor condition and the \$25 rent reduction granted is arbitrary; and the tenant cannot afford the rent and was financially motivated in bringing the petition.

MSC: To deny the appeal. (Mosbrucker/Becker: 4-0)

E. 134 – 3rd Ave.

AT050148

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$4,600.00. The tenant appeals, asserting that: the rent reduction for lack of heat is inadequate as it only covers 23 of 129 months of the tenancy; contrary to the finding in the decision, the tenant has been assessed late fees after the landlords changed the date that rent payments are due; the tenant can prove the amounts he has wrongfully paid for garbage service; and the landlords should be assessed punitive damages.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the following issues: the length of time the rent reduction for lack of heat should be granted; the amount owing to the tenant from the landlord for garbage pickup; and the change in the rent payment due date and late fees, if any. (Mosbrucker/Becker: 3-2; Hurley, Mosser dissenting)

F. 1044 Pine St. #9

AT050145

The landlord's petition for a determination pursuant to Rules Section 1.21 was granted as the Administrative Law Judge determined that the subject unit is not the tenant's principal place of residence. On appeal, the tenant maintains that: he was prejudiced because his requests for postponement of the hearing were denied so he was forced to testify by telephone, and the landlord failed to appear and be subject to cross-examination; there is nothing in the regulation that specifies the relevant time period for determining a tenant's principal place of residence, and no evidence was submitted as to where the tenant resided on the date the petition was filed; the fact that the tenant co-owns property and his son attends school in Pacifica does not make that community his principal place of residence; where a tenant sleeps is indicative, but not conclusive, as to their principal place of residence; the indices of residency enumerated in the regulation show the subject unit as the tenant's principal place of residence; the landlord is acting with a retaliatory motive; and the Rent Board did not have the authority to enact Rules Section 1.21.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Becker: 5-0)

After discussion, it was the consensus of the Board to continue this case to the next Board meeting, when more Commissioners will be present.

G. 440 Davis Ct. #1507

AT050143

The landlord's petition for a determination pursuant to Rules and Regulations Section 1.21 was granted as the Administrative Law Judge found that the subject unit is not the tenant's principal place of residence. On appeal, the tenant claims that the Administrative Law Judge exhibited bias against the tenant by mischaracterizing and/or omitting important evidence; the testimony of the landlord's private investigator supported the tenant's case; the tenant's statement that he never had a homeowner's exemption on property in Carmel owned by his wife is factually accurate; the Grant Deed submitted post-hearing by the tenant shows that the Carmel property was acquired by both he and his wife for financing purposes, but immediately transferred to the tenant's wife as her separate property; the tenant also had a homeowner's exemption on a property in Sonora, which was purchased as a vacation home; the car that the tenant drives was parked at the subject premises; the tenant's possessions are in the subject unit; the subject unit is the tenant's usual place of return, and the place he infrequently leaves; and the enactment of Section 1.21 exceeded the Commission's authority.

MSC: To deny the appeal. (Mosser/Hurley: 3-2; Becker, Mosbrucker dissenting)

H. 2337 Francisco St.

AL050149

The tenant's petition alleging an unlawful increase in rent from \$2,700.00 to \$3,000.00 per month was granted and the landlord was found liable to the tenant in the amount of \$600.00. The Administrative Law Judge found that the amount of \$2,700.00 was not a temporary reduction in the rent due to the tenant's financial difficulties, as alleged by the landlord. Rather, the ALJ determined that the \$300.00 per month reduction constituted a renegotiated lowering of the rent due to market conditions at the time. On appeal, the landlord maintains that: an agreement to lower the base rent constitutes a contract dispute, which must be adjudicated in court; and no new rental agreement was entered into and the original lease remains in effect.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-2; Hurley, Mosser dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

B. Articles from the Examiner and Beyond Chron regarding the possibility of displacement of tenants by large buildings being converted to TICs.

C. An article from Beyond Chron regarding Board of Supervisor approval of the conversion to condos of the building at 400 Vallejo, since Subdivision Code Section 1386 does not apply when a hearing before the Planning Commission has already been held and a decision issued.

D. An article from the Chronicle regarding an agreement between the landlord/developer and tenants at the Trinity Plaza apartment complex.

VII. Director's Report

Acting Executive Director Wolf told the Board that she gave a presentation at the June meeting of the Small Property Owners of San Francisco.

VIII. Old Business

Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds
(Ordinance Section 37.3(a)(5)(B))

Senior Administrative Law Judge Sandy Gartzman further discussed with the Board proposed regulations she had drafted regarding landlords' right to pass through to tenants 50% of the increase in their water bills attributable to the issuance of bonds authorized at the November 5, 2002 election (Proposition A). Ms. Gartzman brought new Section 10.14 to the Board's attention, which provides that a tenant may challenge a water revenue bond passthrough within one year of the effective date of the passthrough. The Commissioners then passed the following motion:

MSC: To put out for Public Hearing proposed regulations implementing procedures for the passthrough of 50% of water bill increases related to the issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election (Proposition A). (Mosbrucker/Mosser: 5-0)

The Public Hearing will be held on July 19, 2005 at 6:30 p.m. Proposed new Sections 4.14 and 10.14 read as follows below:

Section 4.14 Water Revenue Bond Passthrough

(Added [date])

(a) A landlord may pass through fifty percent (50%) of the water bill charges attributable to water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election (Proposition A), to any unit that is in compliance with any applicable laws requiring water conservation devices. The landlord is not required to file a petition with the Board for approval of a water revenue bond passthrough.

(b) The landlord shall give the tenant(s) legal notice of any water revenue bond passthrough.

(1) The notice shall specify the dollar amount of the monthly passthrough, the period of time covered by the water bill(s) that are used to calculate the passthrough and the number of months that the tenant is required to pay the passthrough.

(2) The notice shall explain that the passthrough is based on increased water bill charges attributable to water rate increases resulting from issuance of water revenue bonds authorized at the November 2002 election.

(3) The charges and the calculation of the passthrough shall be explained in writing on a form provided by the Board, which form shall be attached to the notice.

(4) The notice shall state that the tenant is entitled to receive a copy of the applicable water bill(s) from the landlord upon request.

(5) The notice shall state that the unit is in compliance with any applicable laws requiring water conservation devices.

(c) The landlord shall calculate the amount of the water revenue bond passthrough as follows:

(1) Step 1: Compile the water bill(s) to be included in the calculation of the water revenue bond passthrough. The landlord may base the calculation on a single water bill or, in the alternative, on all of the water bills for any calendar year. Where the landlord elects to calculate the passthrough based on calendar year, the passthrough shall be based on actual costs incurred by the landlord during the relevant calendar year(s), regardless of when the water bills were received or paid.

(2) Step 2: Add up the water bill charges attributable to water rate increases resulting from issuance of Water System Revenue Bonds authorized at the November 5, 2002 election. These charges are listed as a separate line item on the water bill. Divide that figure by two (since a 50% passthrough is permitted) in order to obtain the total amount permitted to be passed through to tenants in the building.

Improvement

(3) Step 3: Divide the amount determined in Step 2 above by the total number of units covered by the water bill(s), including commercial units, to obtain the allowable passthrough per unit.

(4) Step 4: Divide the amount determined in Step 3 above by the number of months covered by the water bill(s) to determine the monthly passthrough amount for each unit covered by the water bill(s).

(d) The monthly passthrough amount determined in Step 4 can be imposed only for the same number of months covered by the water bills that are used in the passthrough calculation. For example, if the landlord imposes a water revenue bond

passthrough based on a single water bill with a two-month bill cycle, the monthly passthrough remains in effect for two months only. If the landlord imposes a water revenue bond passthrough based on water bills for charges incurred during an entire calendar year, the monthly passthrough remains in effect for twelve months. If the landlord imposes a water revenue bond passthrough based on water bills for charges incurred during two calendar years, the monthly passthrough remains in effect for twenty-four months.

(e) Where the landlord elects to calculate the water revenue bond passthrough based on a single water bill, the passthrough may be imposed at any time, provided that the landlord serves notice of such passthrough within sixty (60) days of receipt of the water bill. Where the landlord elects to calculate the water revenue bond passthrough based on water bills for charges incurred during an entire calendar year, the passthrough may be imposed at any time, provided that the landlord serves notice of such passthrough to be effective on the tenant's anniversary date.

(f) Only those tenants in residency during the billing period(s) in which the water bill charges were incurred may be assessed the passthrough.

(g) The amount due from the tenant for any water revenue bond passthrough shall be due on the same date as a rent payment normally would be due.

(h) The water revenue bond passthrough shall not be included in the tenant's base rent for purposes of calculation of the amount of rent increases allowable under the Ordinance and these Rules and Regulations.

(i) Nothing in this section or in these Rules and Regulations shall be interpreted as requiring any landlord to pass through any water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election. However, the provisions of this Section shall be deemed a part of every rental agreement or lease, written or oral, for the possession of a rental unit subject to the Ordinance unless the landlord and tenant agree that the landlord will not pass through any charges based on water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election, in which case such agreement will be binding on the landlord and on any successor owner of the building, unless such agreement is changed in accordance with applicable law.

(j) Where a water revenue bond passthrough has been lawfully demanded of a tenant, a change in the ownership of the building in which the tenant's unit is located will not affect the tenant's liability to pay the amount passed through.

(k) Where a tenant alleges that the landlord has imposed a water revenue bond passthrough that is not in compliance with Ordinance Section 37.3(a)(5)(B) and Rules and Regulations Section 4.14, the tenant may petition for a hearing under the procedures provided in Ordinance Section 37.8. In such a hearing, the landlord shall have the burden of proof. Any tenant petition challenging such a passthrough must be filed within one year of the effective date of the challenged water revenue bond passthrough. The filing of a petition by a tenant does not relieve the tenant of his or her obligation to pay the passthrough pending a final determination. Grounds for challenging a water revenue bond passthrough are set forth in Section 10.14 of these Rules and Regulations.

(l) A tenant may file a hardship application with the Board requesting relief from all or part of a water revenue bond passthrough. Any hardship application must be filed within one year of the effective date of the water revenue bond passthrough(s). Payment of the water revenue bond passthrough(s) set forth in the hardship application shall be stayed until a decision is made by the Administrative Law Judge after a hearing on the tenant's hardship application. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f).

Section 10.14 Improper Water Revenue Bond Passthrough

(Added [date])

(a) Within one year of the effective date of a water revenue bond passthrough, a tenant may petition for an arbitration hearing on the following grounds;

(1) The landlord has not properly calculated the passthrough;

(2) The passthrough is calculated using an incorrect unit count;

(3) The landlord failed to provide a clear written explanation of the charges and the calculation of the passthrough;

(4) The unit is not in compliance with applicable laws requiring water conservation devices;

(5) The tenant requested a copy of the applicable water bill(s) and the landlord has not provided them;

(6) The tenancy began during or after the billing period(s) included in the passthrough calculation;

(7) The landlord failed to discontinue the passthrough after it was fully paid.

(b) The landlord shall have the burden of proving the accuracy of the calculation that is the basis of the water revenue bond passthrough, and that the unit is in compliance with applicable laws requiring water conservation devices.

(c) A petition based on this section shall be accompanied by the notice of the water revenue bond passthrough.

IX. New Business

The Board will be holding an appeal hearing regarding the property at 2201 Pacific #601 (AT050139) at their meeting on August 2nd. In preparation for the hearing on this Rules Section 1.21 case, Commissioner Justman wondered if there was certain information that would be useful for the Board to request that the parties provide. This issue will be discussed at the next Board meeting.

X. Calendar Items

June 28, 2005 - NO MEETING

July 5, 2005

6 appeal considerations (1 cont. from 6/21/05)

Old Business: 2201 Pacific #601 Board Hearing (AT050139)

New Business: Appointment of Executive Director

XI. Adjournment

Commissioner Becker adjourned the meeting at 7:40 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
July 5, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

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07-05-05P01:35 RCVU

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 825 Pine #12 AT050153

The tenants appeal the denial of their petition alleging decreased housing services.

B. 665 Eddy #64 AL050156

The landlord appeals the decision granting claims of decreased housing services.

C. 240 Dolores St., Apt. 216 AT050155

The tenant appeals the determination that the unit is not his principal place of residence pursuant to Rules Section 1.21.

D. 878 Kansas AT050154

The tenant appeals the decision granting the landlords' petition for extension of time to do capital improvement work.

E. 553 Belvedere #B AT050152



The tenants appeal the determination that they are not "Tenants in Occupancy" pursuant to Rules Section 1.21.

F. 1044 Pine #

AT050145

(cont. from 6/21/05)

The tenant appeals the determination that the unit is not his principal place of residence pursuant to Rules Section 1.21.

VI. Communications

VII. Director's Report

VIII. Old Business

Procedures for Board Hearing: 2201 Pacific #601 (acpt. 6/7/05)

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

PUBLIC EMPLOYEE APPOINTMENT

Consideration of Whether to Approve the Chair Wasserman's Appointment of Acting Executive Director Delene Wolf as the Executive Director of the Residential Rent Stabilization and Arbitration Board

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, July 5, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:15 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Justman;
Marshall; Mosbrucker; Wasserman.
Commissioners not Present: Hurley; Mosser.
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 21, 2005.
(Becker/Justman: 4-0)

IV. Remarks from the Public

A. Tenant Wayne Cameron of the 1.21 case at 1044 Pine St. (AT050145) told the Board that construction noise had prevented him from being in his unit as much as he would have liked. Mr. Cameron asked that the Board not punish him for "helping a friend buy her dream house." He also informed the Commissioners that the poor public middle schools in San Francisco led to the decision to send his son to school in Pacifica, and that the landlord had threatened to sue the Board should he receive an adverse ruling in the case.

B. Landlord Craig Lipton of 1044 Pine told the Board that he had no retaliatory motive in the case, that the Administrative Law Judge was fair, and that the tenant spends 4-5 nights per week in Pacifica, where his son goes to school. Mr. Lipton said that the tenant is never at the property, and asked where he goes home to at night.

C. David Nelson, the leasing agent for landlord Craig Lipton, said that he hasn't seen the tenant at the property even once, and that notices remain on his door for several days at a time.

D. Craig Mallory, the property manager for landlord Craig Lipton, said that he lived next door to the tenant for a year and rarely saw him. Mr. Mallory asked that the Commissioners "respect the decision of the Administrative Law Judge and let it stand."

V. Consideration of Appeals

A. 825 Pine #12

AT050153

The tenants' petition alleging decreased housing services was dismissed because the tenants departed the hearing without presenting any evidence regarding their claim. On appeal, one of the tenants claims that he was not well on the day of the hearing, but has ample evidence to prove his claim.

MSC: To recuse Commissioner Gruber from consideration of this appeal. (Becker/Justman: 5-0)

MSC: To deny the appeal. (Murphy/Justman: 4-0)

B. 665 Eddy #64

AL050156

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$1,295.00 due to a non-functional elevator and lack of heat in the unit. The landlord appeals, asserting that: there is insufficient evidence in the record to justify the rent reductions granted; the elevator was only dysfunctional for one-third of the relevant time period; under State law, a landlord is given 30 days to effectuate repairs after receiving notice of a problem; it is reasonable for the landlord to make attempts to repair, rather than replace, an elevator; and the tenant had partial heat in his unit and failed to complain about the lack of a permanent heating source in the unit for two years.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

C. 240 Dolores, Apt. 216

AT050155

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was granted as the Administrative Law Judge found that the subject unit is not the tenant's principal place of residence. The tenant did not appear at the

hearing. On appeal, the tenant claims not to have received the Notice of Hearing, because he was undergoing medical treatment in New York at the time.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Becker/Murphy: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Becker/Marshall: 4-0)

D. 878 Kansas

AT050154

The landlords' petition for extension of time to complete capital improvement work was granted and the landlords' estimate of seven months was found to be reasonable. The tenant appeals, claiming that the landlord was granted seven months to complete the work, but the "extension for building permit form" indicates start to finish dates totaling nine months.

MSC: To deny the appeal. (Marshall/Murphy: 5-0)

E. 553 Belvedere #B

AT050152

The landlords' petition for a determination pursuant to Rules Section 1.21 was granted because the Administrative Law Judge found that the subject unit was not the tenants' principal place of residence. On appeal, the tenants claim that: the tenants are "tenants in occupancy" of the subject unit because they are only temporarily in Israel while one of the tenants pursues her PhD; the tenants' payment of rent for the apartment for the past eight years while in Israel evidences their intent to return; many of the indicia of residency enumerated in Rules Section 1.21 show the subject unit as the tenants' residence; the landlord should be barred from pursuing the rent increase based on the theory of promissory estoppel; and the enactment of Rules Section 1.21 constituted an impermissible use of rule-making power on the part of the Rent Board.

This appeal was withdrawn immediately prior to the meeting.

F. 1044 Pine #9

AT050145
(cont. from 6/21/05)

The landlord's petition for a determination pursuant to Rules Section 1.21 was granted as the Administrative Law Judge determined that the subject unit is not the tenant's principal place of residence. On appeal, the tenant maintains that: he was prejudiced because his requests for postponement of the hearing were denied so he was forced to testify by telephone, and the landlord failed to appear and be subject to cross-examination; there is nothing in the regulation that

specifies the relevant time period for determining a tenant's principal place of residence, and no evidence was submitted as to where the tenant resided on the date the petition was filed; the fact that the tenant co-owns property and his son attends school in Pacifica does not make that community his principal place of residence; where a tenant sleeps is indicative, but not conclusive, as to their principal place of residence; the indices of residency enumerated in the regulation show the subject unit as the tenant's principal place of residence; the landlord is acting with a retaliatory motive; and the Rent Board did not have the authority to enact Rules Section 1.21.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Murphy/Justman: 5-0)

MSC: To deny the appeal. (Gruber/Murphy: 2-3; Henderson, Marshall, Justman dissenting)

MSC: To accept the appeal and remand the case to the Administrative Law Judge for further hearing; each side may submit supplementary evidence. (Justman/Marshall: 5-0)

VI. Communications

The Commissioners received the following communications:

A. A copy of the appellate decision in Bisno v. Santa Monica, which upheld a provision of the Santa Monica Rent Ordinance which allows a rent increase when the unit is not the tenant's principal place of residence.

B. A copy of the Notice of Public Hearing for the July 19th hearing on proposed new regulations to implement Ordinance Section 37.3(a)(5)(B), which allows landlords to pass through to tenants 50% of the water bill charges attributable to water rate increases resulting from issuance of water system improvement revenue bonds authorized at the November 5, 2002 election (Proposition A).

C. An article from the San Francisco Chronicle regarding married couples who live in separate domiciles.

VII. Director's Report

Senior Administrative Law Judge Tim Lee informed the Board that Judge Warren's ruling in the Pieri case that recent Ordinance amendments extending Ellis relocation payments to all tenants was stayed upon the City's filing of an appeal. Plaintiff's motion to lift the stay was denied on June 27th, which means

that tenants may assert their rights to relocation payments under the Peskin amendments pending a final decision on appeal.

VIII. Old Business

Board Hearing for Property at 2201 Pacific #601 (AT050139) (acpt. 6/7/05)

The Board will hear the Rules Section 1.21 case concerning the property at 2201 Pacific at the August 2nd meeting. Commissioner Justman asked whether there were certain documents that might be requested that could help elucidate the question of whether the tenant's principal place of residence is the San Francisco unit or the house in Sausalito where she spends time with her husband. The Board asked staff to prepare a Pre-Hearing Order requesting that the tenant provide: homeowner's exemption forms, the Deed of Trust and homeowner's insurance policy on the Sausalito property, as well as recent tax returns.

IX. New Business

PUBLIC EMPLOYEE APPOINTMENT

Consideration of Whether to Approve the Chair Wasserman's Appointment of Acting Executive Director Delene Wolf as the Executive Director of the Residential Rent Stabilization and Arbitration Board

MSC: To approve the Chair Wasserman's appointment of Delene Wolf as Executive Director of the Residential Rent Stabilization and Arbitration Board. (Marshall/Murphy: 5-0)

The Alternate Commissioners present voted in the affirmative as well.

X. Calendar Items

July 12, 2005 - NO MEETING

July 19, 2005

5 appeal considerations

6:30 Public Hearing: Water Revenue Bond Passthroughs

XI. Adjournment

President Wasserman adjourned the meeting at 7:35 p.m.



GAVIN NEWSOM
MAYOR

SHARON K. WASSERMAN
PRESIDENT

June 30, 2005

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

NOTICE OF PUBLIC HEARING

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

DATE:	JULY 19, 2005
TIME:	6:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET STREET) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON PROPOSED NEW SECTIONS 4.14 AND 10.14, WHICH ARE ATTACHED TO THIS NOTICE. FORMER SECTION 4.14 ("EFFECT OF VACANCY") WILL BE RENUMBERED AS SECTION 4.15, BUT THE LANGUAGE OF THAT SECTION REMAINS UNCHANGED.

THE INTENT OF PROPOSED SECTION 4.14 IS TO PROVIDE PROCEDURES TO IMPLEMENT ORDINANCE SECTION 37.3(a)(5)(B), WHICH ALLOWS LANDLORDS TO PASS THROUGH TO TENANTS 50% OF THE WATER BILL CHARGES ATTRIBUTABLE TO WATER RATE INCREASES RESULTING FROM ISSUANCE OF WATER SYSTEM IMPROVEMENT REVENUE BONDS AUTHORIZED AT THE NOVEMBER 5, 2002 ELECTION (PROPOSITION A). THE INTENT OF PROPOSED SECTION 10.14 IS TO PROVIDE PROCEDURES FOR A TENANT TO CHALLENGE AN IMPROPER WATER REVENUE BOND PASSTHROUGH.

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JUL - 5 2005

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07-05-05P01:35 RC45



You may either comment at the Public Hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Department no later than **5 p.m. on Monday, July 11th, 2005**, so that the Commissioners can be mailed your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit 12 copies of your comments in order to facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.

The proposed regulations read as follows below:

Section 4.14 Water Revenue Bond Passthrough

(Added [date])

(a) A landlord may pass through fifty percent (50%) of the water bill charges attributable to water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election (Proposition A), to any unit that is in compliance with any applicable laws requiring water conservation devices. The landlord is not required to file a petition with the Board for approval of a water revenue bond passthrough.

(b) The landlord shall give the tenant(s) legal notice of any water revenue bond passthrough.

(1) The notice shall specify the dollar amount of the monthly passthrough, the period of time covered by the water bill(s) that are used to calculate the passthrough and the number of months that the tenant is required to pay the passthrough.

(2) The notice shall explain that the passthrough is based on increased water bill charges attributable to water rate increases resulting from issuance of water revenue bonds authorized at the November 2002 election.

(3) The charges and the calculation of the passthrough shall be explained in writing on a form provided by the Board, which form shall be attached to the notice.

(4) The notice shall state that the tenant is entitled to receive a copy of the applicable water bill(s) from the landlord upon request.

(5) The notice shall state that the unit is in compliance with any applicable laws requiring water conservation devices.

(c) The landlord shall calculate the amount of the water revenue bond passthrough as follows:

(1) Step 1: Compile the water bill(s) to be included in the calculation of the water revenue bond passthrough. The landlord may base the calculation on a single water bill or, in the alternative, on all of the water bills for any calendar year. Where the landlord elects to calculate the passthrough based on calendar year, the passthrough shall be based on actual costs incurred by the landlord during the relevant calendar year(s), regardless of when the water bills were received or paid.

(2) Step 2: Add up the water bill charges attributable to water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election. These charges are listed as a separate

line item on the water bill. Divide that figure by two (since a 50% passthrough is permitted) in order to obtain the total amount permitted to be passed through to tenants in the building.

(3) Step 3: Divide the amount determined in Step 2 above by the total number of units covered by the water bill(s), including commercial units, to obtain the allowable passthrough per unit.

(4) Step 4: Divide the amount determined in Step 3 above by the number of months covered by the water bill(s) to determine the monthly passthrough amount for each unit covered by the water bill(s).

(d) The monthly passthrough amount determined in Step 4 can be imposed only for the same number of months covered by the water bills that are used in the passthrough calculation. For example, if the landlord imposes a water revenue bond passthrough based on a single water bill with a two-month bill cycle, the monthly passthrough remains in effect for two months only. If the landlord imposes a water revenue bond passthrough based on water bills for charges incurred during an entire calendar year, the monthly passthrough remains in effect for twelve months. If the landlord imposes a water revenue bond passthrough based on water bills for charges incurred during two calendar years, the monthly passthrough remains in effect for twenty-four months.

(e) Where the landlord elects to calculate the water revenue bond passthrough based on a single water bill, the passthrough may be imposed at any time, provided that the landlord serves notice of such passthrough within sixty (60) days of receipt of the water bill. Where the landlord elects to calculate the water revenue bond passthrough based on water bills for charges incurred during an entire calendar year, the passthrough may be imposed at any time, provided that the landlord serves notice of such passthrough to be effective on the tenant's anniversary date.

(f) Only those tenants in residency during the billing period(s) in which the water bill charges were incurred may be assessed the passthrough.

(g) The amount due from the tenant for any water revenue bond passthrough shall be due on the same date as a rent payment normally would be due.

(h) The water revenue bond passthrough shall not be included in the tenant's base rent for purposes of calculation of the amount of rent increases allowable under the Ordinance and these Rules and Regulations.

(i) Nothing in this section or in these Rules and Regulations shall be interpreted as requiring any landlord to pass through any water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election. However, the provisions of this Section shall be deemed a part of every rental agreement or lease, written or oral, for the possession of a rental unit subject to the Ordinance unless the landlord and tenant agree that the landlord will not pass through any charges based on water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election, in which case such agreement will be binding on the landlord and on any successor owner of the building, unless such agreement is changed in accordance with applicable law.

(j) Where a water revenue bond passthrough has been lawfully demanded of a tenant, a change in the ownership of the building in which the tenant's unit is located will not affect the tenant's liability to pay the amount passed through.

(k) Where a tenant alleges that the landlord has imposed a water revenue bond passthrough that is not in compliance with Ordinance Section

37.3(a)(5)(B) and Rules and Regulations Section 4.14, the tenant may petition for a hearing under the procedures provided in Ordinance Section 37.8. In such a hearing, the landlord shall have the burden of proof. Any tenant petition challenging such a passthrough must be filed within one year of the effective date of the challenged water revenue bond passthrough. The filing of a petition by a tenant does not relieve the tenant of his or her obligation to pay the passthrough pending a final determination. Grounds for challenging a water revenue bond passthrough are set forth in Section 10.14 of these Rules and Regulations.

(l) A tenant may file a hardship application with the Board requesting relief from all or part of a water revenue bond passthrough. Any hardship application must be filed within one year of the effective date of the water revenue bond passthrough(s). Payment of the water revenue bond passthrough(s) set forth in the hardship application shall be stayed until a decision is made by the Administrative Law Judge after a hearing on the tenant's hardship application. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f).

Section 4.15 Effect of Vacancy

(Added April 25, 1995, effective February 1, 1995; renumbered effective [date])

{TEXT OMITTED FROM THIS DRAFT, BUT REMAINS UNCHANGED}

Section 10.14 Improper Water Revenue Bond Passthrough

(Added [date])

(a) Within one year of the effective date of a water revenue bond passthrough, a tenant may petition for an arbitration hearing on the following grounds;

- (1) The landlord has not properly calculated the passthrough;
- (2) The passthrough is calculated using an incorrect unit count;
- (3) The landlord failed to provide a clear written explanation of the charges and the calculation of the passthrough;
- (4) The unit is not in compliance with applicable laws requiring water conservation devices;
- (5) The tenant requested a copy of the applicable water bill(s) and the landlord has not provided them;
- (6) The tenancy began during or after the billing period(s) included in the passthrough calculation;
- (7) The landlord failed to discontinue the passthrough after it was fully paid.

(b) The landlord shall have the burden of proving the accuracy of the calculation that is the basis of the water revenue bond passthrough, and that the unit is in compliance with applicable laws requiring water conservation devices.

(c) A petition based on this section shall be accompanied by the notice of the water revenue bond passthrough.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
July 19, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

DOCUMENTS DEPT.

JUL 15 2005

SAN FRANCISCO
PUBLIC LIBRARY

A. Parkmerced AL050158 thru
-0176 & 0178 thru -0180

The landlord appeals the dismissal of 22 petitions for certification of capital improvement costs because it was found that the work was not completed at the time the petitions were filed and therefore the cases were not ripe for adjudication.

B. 440 Davis Ct. #1921 AT050157

The tenant appeals the remand decision determining that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

C. 543 Buena Vista West #1 AL050181

The landlord appeals the decision granting a claim of decreased housing services.

D. 208 - 12th Ave. AT050182



The tenant appeals the decision granting a rent increase based on comparable rents.

E. 795 Burnett #5

AL050183

The landlord appeals the decision determining that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

VI. Public Hearing

6:30 Water Bill Increase Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds
(Ordinance Section 37.3(a)(5)(B))

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment



ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, July 19, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

Commissioner Gruber called the meeting to order at 6:02 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Justman; Mosbrucker; Mosser.
Commissioners not Present: Marshall; Murphy; Wasserman.
Staff Present: Gartzman; Lee.

III. Approval of the Minutes

MSC: To approve the Minutes of July 5, 2005 with the following
correction to page 4 (in double underline), involving the result of
the second motion on Appeal No. AT050145 regarding 1044
Pine Street #9:
"MSE: To deny the appeal. (Gruber/Murphy: 2-3;
Henderson, Marshall, Justman dissenting)"
(Gruber/Mosbrucker: 5-0)

IV. Consideration of Appeals

A. Parkmerced

AL050158 thru AL050176 &
AL050178 thru AL050180

The landlord filed 24 petitions to pass through the costs of a repiping/irrigation project. A decision was issued certifying a monthly passthrough in the amount of \$63.70 to tenants of Block 3, which was processed as a test case. Upon appeal from 6 tenants, the Board voted to remand the case to the Administrative Law Judge to vacate the decision and dismiss the petition because the work performed was found to be part of a complex-wide project that was not completed at the time the petition was filed, and therefore the case was not ripe

for adjudication. The dismissal was without prejudice to the filing of a single petition for certification of the costs of the entire project when the work is completed. The ALJ then dismissed the 23 related petitions without a hearing because the petitions were indistinguishable from the Block 3 petition on the issue of premature filing before the capital improvement project was completed. The landlord appeals the dismissals of 22 of the 23 related petitions on the grounds that: the landlord is prejudiced by the dismissals because a new filing date will only entitle them to certification of 50% of the costs, pursuant to amendments to the Rent Ordinance that took effect as of November 14, 2002; the dismissals should not have been issued before there is a final determination by the Court on the Block 3 case because if there is a court decision in the landlord's favor in that case, the dismissals in these 22 related cases should be reversed, but there is no procedure for changing the rulings in these 22 related cases; the irrigation project was not complex-wide and each block should have been separately considered; and the landlord was denied its due process right to a hearing prior to dismissals being entered.

MSC: To recuse Commissioner Becker from consideration of the appeal. (Mosbrucker/Justman: 5-0)

MSC: To deny the appeal. (Mosbrucker/Justman: 5-0)

B. 440 Davis Court #1921

AT050157

The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit was the tenant's principal place of residence. The landlord's appeal was accepted and the case was remanded to consider Evidence Code Section 413 and what, if any, inferences should be drawn from the tenant's failure to explain or deny the evidence presented by the landlord. The tenant failed to appear at the remand hearing, nor did she testify by phone or submit a Declaration Under Penalty of Perjury. The Administrative Law Judge granted the landlord's petition and found that the tenant is not a "Tenant in Occupancy" of the subject unit. The tenant appeals the remand decision, arguing that: the case was remanded only to consider the applicability of Evidence Code Section 413, and not to gather new facts nor open the record to accept new evidence; and the "Pre-Hearing Order" issued by the Administrative Law Judge exceeded the authority granted by the Rent Board on remand.

MSC: To deny the appeal. (Hurley/Gruber: 4-1; Becker dissenting)

C. 543 Buena Vista West #1

AL050181

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$25.00 per month or \$150.00 due to a leaking bedroom ceiling. The landlord appeals, claiming that: the petition is pre-empted by State law; the tenant did not suffer a substantial decrease in services because he had unrestricted use of the apartment during the relevant time period; the tenant failed to promptly notify the landlord regarding the alleged leak, and his negligence contributed to the problem; the leak was minor and inconsequential; there are factual errors in the decision; and the Administrative Law Judge was biased against the landlord.

MSC: To deny the appeal. (Becker/Mosbrucker: 5-0)

D. 208 – 12th Ave.

AT050182

The landlord's petition for a rent increase from \$300 to \$1,200 based on comparable rents was granted. The Administrative Law Judge found that the tenant's rent was originally set low because he rented from family members and was an unemployed student unable to pay market rent at the time. The tenant appeals, arguing that: there was no agreement that his rent would be raised once he graduated from college and got a job; his sisters are retaliating against him because he will not let them sell the building; and only the rents of certain tenants are being increased, although the claim is that the building is losing money.

MSF: To deny the appeal. (Justman/Gruber: 2-3; Becker, Hurley and Mosbrucker dissenting)

MSC: To deny the appeal. (Justman/Gruber: 3-2; Becker, Mosbrucker dissenting)

E. 795 Burnett #5

AL050183

The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence. On appeal, the landlord asserts that: the subject unit is the tenant's vacation home and her principal place of residence is in Missouri, with her sister; the tenant has spent more time in Missouri over the past six years than in San Francisco; the tenant has moved her possessions to Missouri, as well as her car; the tenant uses the Missouri address for tax purposes and delivery of mail; the tenant was registered to vote in Missouri until recently; and no evidence was presented that the tenant's Social Security checks are deposited into the tenant's San Francisco account, while the tenant acknowledges doing some banking in Missouri.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-2; Gruber, Hurley dissenting)

V. Public Hearing

Water Revenue Bond Passthroughs Resulting from Issuance of Water System Improvement Revenue Bonds
(Ordinance Section 37.3(a)(5)(B))

The Commissioners held a Public Hearing on proposed changes to the Rules and Regulations concerning water revenue bond passthroughs. The intent of proposed Section 4.14 is to provide procedures to implement Ordinance Section 37.3(a)(5)(B), which allows landlords to pass through to tenants 50% of the water bill charges attributable to water rate increases resulting from issuance of water system improvement revenue bonds authorized at the November 5, 2002 election (Proposition A). The intent of proposed Section 10.14 is to provide procedures for a tenant to challenge an improper water revenue bond passthrough. The public hearing commenced at 6:45 p.m. One individual addressed the Board as follows:

Tenant Robert Pender of The Villas Parkmerced stated that the apartment complex where he lives has a lot of trees, bushes and landscaped grounds which the landlord waters "day and night", resulting in a lot of runoff and wasted water. He believes it is a grave injustice to allow the landlord to pass through the cost of water and that the landlord should not be able to charge the tenants for wasting water.

After the conclusion of the Public Hearing at 6:47 p.m., the Commissioners reviewed sample copies of the new water bills mailed by the San Francisco Public Utilities Commission to its customers after July 1, 2005. The bill for multi-family residences includes the following language:

"Your current water charge includes \$XX.XX for costs attributable to water rate increases resulting from the issuance of Water System Improvement Revenue Bonds authorized by voters at the November 5, 2002 election (Proposition A). An owner of residential rental units subject to the San Francisco Rent Ordinance may be able to pass through 50% of the increased cost to tenants. For more information, contact the San Francisco Rent Board at 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102 or call (415) 252-4602 or visit the Rent Board website at www.sfgov.org/rentboard."

The bill for single-family residences does not specify the charge attributable to water rate increases resulting from the issuance of Water System Improvement Revenue Bonds authorized by voters at the November 5, 2002 election

(Proposition A), as required by Ordinance Section 37.3(a)(5)(B)(vii)(2). Staff informed the Commissioners that the SFPUC was willing to change the language on the bills for single-family residences to be the same as that on the multi-family residence bills, but preferred to use different language which would require the customer to contact the SFPUC to get the amount of the water charge subject to the passthrough printed on the bill. The Commissioners unanimously agreed that the language on the single family residence bills should be changed to the exact same language used on the multiple-family residence bills so that each bill has a separate line item showing the amount of the charges that could be passed through to tenants (at the rate of 50%). The Commissioners directed staff to notify the SFPUC of its request to change the water revenue bond passthrough language on the water bills for single-family residences. Staff also agreed to prepare a calculation worksheet for water revenue bond passthroughs by September 1, 2005.

MSC: To adopt the proposed new Rules and Regulations Sections 4.14 and 10.14 regarding water revenue bond passthroughs, and to renumber former Section 4.14 as Section 4.15, all effective July 20, 2005.
(Justman/Gruber: 5-0)

The amendments read as follows below:

Section 4.14 Water Revenue Bond Passthrough

(Effective July 20, 2005)

(a) A landlord may pass through fifty percent (50%) of the water bill charges attributable to water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election (Proposition A), to any unit that is in compliance with any applicable laws requiring water conservation devices. The landlord is not required to file a petition with the Board for approval of a water revenue bond passthrough.

(b) The landlord shall give the tenant(s) legal notice of any water revenue bond passthrough.

(1) The notice shall specify the dollar amount of the monthly passthrough, the period of time covered by the water bill(s) that are used to calculate the passthrough and the number of months that the tenant is required to pay the passthrough.

(2) The notice shall explain that the passthrough is based on increased water bill charges attributable to water rate increases resulting from issuance of water revenue bonds authorized at the November 2002 election.

(3) The charges and the calculation of the passthrough shall be explained in writing on a form provided by the Board, which form shall be attached to the notice.

(4) The notice shall state that the tenant is entitled to receive a copy of the applicable water bill(s) from the landlord upon request.

(5) The notice shall state that the unit is in compliance with any applicable laws requiring water conservation devices.

(c) The landlord shall calculate the amount of the water revenue bond passthrough as follows:

(1) Step 1: Compile the water bill(s) to be included in the calculation of the

water revenue bond passthrough. The landlord may base the calculation on a single water bill or, in the alternative, on all of the water bills for any calendar year. Where the landlord elects to calculate the passthrough based on calendar year, the passthrough shall be based on actual costs incurred by the landlord during the relevant calendar year(s), regardless of when the water bills were received or paid.

(2) **Step 2:** Add up the water bill charges attributable to water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election. These charges are listed as a separate line item on the water bill. Divide that figure by two (since a 50% passthrough is permitted) in order to obtain the total amount permitted to be passed through to tenants in the building.

(3) **Step 3:** Divide the amount determined in Step 2 above by the total number of units covered by the water bill(s), including commercial units, to obtain the allowable passthrough per unit.

(4) **Step 4:** Divide the amount determined in Step 3 above by the number of months covered by the water bill(s) to determine the monthly passthrough amount for each unit covered by the water bill(s).

(d) The monthly passthrough amount determined in Step 4 can be imposed only for the same number of months covered by the water bills that are used in the passthrough calculation. For example, if the landlord imposes a water revenue bond passthrough based on a single water bill with a two-month bill cycle, the monthly passthrough remains in effect for two months only. If the landlord imposes a water revenue bond passthrough based on water bills for charges incurred during an entire calendar year, the monthly passthrough remains in effect for twelve months. If the landlord imposes a water revenue bond passthrough based on water bills for charges incurred during two calendar years, the monthly passthrough remains in effect for twenty-four months.

(e) Where the landlord elects to calculate the water revenue bond passthrough based on a single water bill, the passthrough may be imposed at any time, provided that the landlord serves notice of such passthrough within sixty (60) days of receipt of the water bill. Where the landlord elects to calculate the water revenue bond passthrough based on water bills for charges incurred during an entire calendar year, the passthrough may be imposed at any time, provided that the landlord serves notice of such passthrough to be effective on the tenant's anniversary date.

(f) Only those tenants in residency during the billing period(s) in which the water bill charges were incurred may be assessed the passthrough.

(g) The amount due from the tenant for any water revenue bond passthrough shall be due on the same date as a rent payment normally would be due.

(h) The water revenue bond passthrough shall not be included in the tenant's base rent for purposes of calculation of the amount of rent increases allowable under the Ordinance and these Rules and Regulations.

(i) Nothing in this section or in these Rules and Regulations shall be interpreted as requiring any landlord to pass through any water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election. However, the provisions of this Section shall be deemed a part of every rental agreement or lease, written or oral, for the possession of a rental unit subject to the Ordinance unless the landlord and tenant agree that the landlord will not pass through any charges based on water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 5, 2002 election, in which case such agreement will be binding on the landlord and on any successor owner of the building, unless such agreement is changed in accordance with applicable law.

(j) Where a water revenue bond passthrough has been lawfully demanded of a tenant, a change in the ownership of the building in which the tenant's unit is located will not affect the tenant's liability to pay the amount passed through.

(k) Where a tenant alleges that the landlord has imposed a water revenue bond passthrough that is not in compliance with Ordinance Section 37.3(a)(5)(B) and Rules and

Regulations Section 4.14, the tenant may petition for a hearing under the procedures provided in Ordinance Section 37.8. In such a hearing, the landlord shall have the burden of proof. Any tenant petition challenging such a passthrough must be filed within one year of the effective date of the challenged water revenue bond passthrough. The filing of a petition by a tenant does not relieve the tenant of his or her obligation to pay the passthrough pending a final determination. Grounds for challenging a water revenue bond passthrough are set forth in Section 10.14 of these Rules and Regulations.

(l) A tenant may file a hardship application with the Board requesting relief from all or part of a water revenue bond passthrough. Any hardship application must be filed within one year of the effective date of the water revenue bond passthrough(s). Payment of the water revenue bond passthrough(s) set forth in the hardship application shall be stayed until a decision is made by the Administrative Law Judge after a hearing on the tenant's hardship application. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f).

Section 4.15 Effect of Vacancy

(Added April 25, 1995, effective February 1, 1995; renumbered effective July 20, 2005)

{TEXT REMAINS UNCHANGED}

Section 10.14 Improper Water Revenue Bond Passthrough

(Effective July 20, 2005)

(a) Within one year of the effective date of a water revenue bond passthrough, a tenant may petition for an arbitration hearing on the following grounds;

- (1) The landlord has not properly calculated the passthrough;
- (2) The passthrough is calculated using an incorrect unit count;
- (3) The landlord failed to provide a clear written explanation of the charges and the calculation of the passthrough;
- (4) The unit is not in compliance with applicable laws requiring water conservation devices;
- (5) The tenant requested a copy of the applicable water bill(s) and the landlord has not provided them;
- (6) The tenancy began during or after the billing period(s) included in the passthrough calculation;
- (7) The landlord failed to discontinue the passthrough after it was fully paid.

(b) The landlord shall have the burden of proving the accuracy of the calculation that is the basis of the water revenue bond passthrough, and that the unit is in compliance with applicable laws requiring water conservation devices.

(c) A petition based on this section shall be accompanied by the notice of the water revenue bond passthrough.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Notice of Public Hearing for the July 19th hearing on proposed new regulations to implement Ordinance Section 37.3(a)(5)(B).

B. Copies of sample water bills mailed by the San Francisco Public Utilities Commission to its customers after July 1, 2005.

VII. Remarks from the Public

Tenant Robert Pender advised the Board that there are many people "out there" who are unhappy with the real estate interests and the Rent Board and the Board should be prepared for some "big changes."

VIII. Calendar Items

July 26, 2005 - NO MEETING

August 2, 2005

5 appeal considerations

The Board Hearing for the property at 2201 Pacific Avenue #601 (AT050139) has been taken off calendar because the parties have agreed to a settlement. The settlement agreement will be presented to the Board for approval.

IX. Adjournment

Commissioner Gruber adjourned the meeting at 7:22 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

SHARON K. WASSERMAN
PRESIDENT

DELENE WOLF

ACTING EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
August 2, 2005

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

JUL 29 2005

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 2600 – 47th Ave. AT050185

The tenant appeals the dismissal of his petition requesting a determination as to whether his rent is a lawful amount.

B. 742 Divisadero #4 AT050186

The tenant appeals the decision determining that a rent increase was authorized pursuant to Rules Section 6.14.

C. 442B Vallejo AL050184

The landlord appeals the decision determining that the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21.

D. 459 Turk St. AT050188

The tenant appeals the decision partially granting claims of decreased housing services.

E. 742 Treat Ave.

AL050187

The landlord appeals the decision granting a claim of unlawful rent increases.

VI. Appeal Hearing

2201 Pacific Ave. #601 (AT050139) (acpt. 6/7/05)
To approve the parties' settlement agreement.

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment



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MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, August 2, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Justman; Marshall; Wasserman.
Commissioners not Present: Mosbrucker; Mosser; Murphy.
Staff Present: Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of July 19, 2005.
(Gruber/Justman: 5-0)

IV. Consideration of Appeals

A. 2600 - 47th Ave. AT050185

The tenant filed a petition requesting a determination as to whether his rent is a lawful amount. The petition was dismissed because the tenant failed to appear at the properly noticed hearing. On appeal, the tenant provides evidence to show that he was ill on the day of the hearing.

MSC: To accept the appeal and remand the case to the Administrative
Law Judge for a new hearing.
(Becker/Marshall: 4-1; Gruber dissenting)

B. 742 Divisadero #4 AT050186

The landlord filed a petition seeking a rent increase pursuant to either Rules and Regulations Section 6.14 and/or Costa-Hawkins and the tenant filed a petition

alleging an unlawful rent increase; these petitions were consolidated for hearing. The Administrative Law Judge ruled in favor of the landlord, finding that the rent increase from \$471.70 to \$1,250.00 was authorized by the service of a timely 6.14 notice on the subtenant after the landlord learned of the death of the original tenant. The tenant appeals, claiming that: the 6.14 notice served on the tenant was invalid because it did not enclose a complete copy of the regulation; and, since a notice of termination of tenancy was not mutually withdrawn, a new tenancy was created upon the landlord's acceptance of cashier's checks signed by the tenant.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

C. 442B Vallejo

AL050184

The landlords' petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence, as the tenant is only temporarily away from the unit while waiting for his Visa application to be granted. On appeal, the landlords maintain that: the tenant cannot be a "Tenant in Occupancy because he does not currently reside in the United States and is legally prohibited from doing so; and the landlords' representative did not have a chance to cross-examine the tenant or the maker of a Declaration on his behalf, because they did not appear at the hearing.

MSC: To deny the landlord's appeal and vacate that portion of the Decision that finds that tenant Budding is a "Tenant in Occupancy." (Justman/Marshall: 3-2; Gruber, Hurley dissenting)

D. 459 Turk St.

AT050188

The tenant's petition alleging decreased housing services in this single room occupancy hotel was granted, in part, and the landlord was found liable to the tenant in the amount of \$150.00 due to the presence of bedbugs in the unit for three months. The tenant appeals the decision, claiming that: sheets, towels and pillow cases used to be provided on a weekly basis and a vacuum cleaner was available for tenants' use; the toilets in the building constantly malfunction; the showers are filthy and unsafe; and the Administrative Law Judge exhibited bias on behalf of the landlord.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

E. 742 Treat Ave.

AL050187

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$10,013.76. On appeal, the landlord claims that: the tenant and landlord agreed to the passthrough of the costs of roof replacement and repainting; the tenant actually has an overdue rent balance; and the tenant petition was unlawful because the tenant was encouraged to file by another tenant in the building who violated a confidential mediation agreement by discussing the case.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

V. Appeal Hearing

2201 Pacific Ave. #601

AT050139

The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit was the tenant's principal place of residence. The landlord appealed the decision, and the Rent Board Commissioners voted to vacate the decision and remand the case to the ALJ to find that the tenant is not a "Tenant in Occupancy." The tenant appealed the remand decision, maintaining that: the documentary evidence shows that the subject unit is the tenant's principal place of residence and usual place of return; the fact that the tenant is married, and her husband resides in Sausalito, should not result in her case being decided differently than if she were single; the Ordinance requires that reversal of a decision is only permitted after an appeal hearing; the landlord failed to meet its burden of proof; the tenant never signed the application for the homeowner's property tax exemption her husband takes on the Sausalito property; the tenant is her mother's primary caregiver at the subject unit; and the Commissioners exhibited bias against an alternative living arrangement in reversing the original decision in this case. At the meeting on June 7, 2005, the Board accepted the landlord's appeal for an appeal hearing before the Board. Prior to the scheduled hearing, the parties reached a settlement agreement which was approved by the Board pursuant to the below motion.

MSC: To approve the agreement of the parties as the Board's decision in this case. (Gruber/Hurley: 5-0)

VI. Communications

The Commissioners received the following communications:

A. A copy of Judge Quidachay's Order Denying Petition for Writ of Mandate in the case of Johnson v. City of San Francisco (Superior Court No. 505-273).

B. An e-mail from Senior Administrative Law Judge Tim Lee explaining recent changes to Ordinance Section 37.13, regarding the provision of keys to tenants.

C. An article from the July 21st S.F. Examiner regarding Judge Mitchell's ruling that the owners of a building on Francisco Street violated the State's Subdivided Lands Act in creating tenancies in common (TICs) in this six-unit building.

VII. Director's Report

Executive Director Delene Wolf informed the Board that this year's rental unit fee will be \$22.00 for residential units and \$11.00 for residential hotel rooms, a \$2.00 reduction from last year. The fee will be assessed on the November 1st property tax bills and landlords can collect 50% of the amount from any tenant in residence as of November 1st.

VIII. Remarks from the Public

Landlord Leon Ribay of the property at 742 Treat Ave. (AL050187) told the Board that he is a senior citizen who has "done his best." Mr. Ribay believes that he helped the tenants by reducing the amount of the capital improvement passthrough; that the decision constitutes an injustice; and said that he will have to sell the building in order to pay the tenants the amount ordered owing in the decision.

IX. Calendar Items

August 9, 16, 23 & 30, 2005 - NO MEETINGS

September 6, 2005

9 appeal considerations (including several from Parkmerced)

X. Adjournment

President Wasserman adjourned the meeting at 7:05 p.m.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
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**CORRECTED MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, August 2, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Justman; Marshall; Wasserman.
Commissioners not Present: Mosbrucker; Mosser; Murphy.
Staff Present: Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of July 19, 2005.
(Gruber/Justman: 5-0)

IV. Consideration of Appeals

A. 2600 – 47th Ave. AT050185

The tenant filed a petition requesting a determination as to whether his rent is a lawful amount. The petition was dismissed because the tenant failed to appear at the properly noticed hearing. On appeal, the tenant provides evidence to show that he was ill on the day of the hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing.
(Becker/Marshall: 4-1; Gruber dissenting)

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The landlord filed a petition seeking a rent increase pursuant to either Rules and Regulations Section 6.14 and/or Costa-Hawkins and the tenant filed a petition

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alleging an unlawful rent increase; these petitions were consolidated for hearing. The Administrative Law Judge ruled in favor of the landlord, finding that the rent increase from \$471.70 to \$1,250.00 was authorized by the service of a timely 6.14 notice on the subtenant after the landlord learned of the death of the original tenant. The tenant appeals, claiming that: the 6.14 notice served on the tenant was invalid because it did not enclose a complete copy of the regulation; and, since a notice of termination of tenancy was not mutually withdrawn, a new tenancy was created upon the landlord's acceptance of cashier's checks signed by the tenant.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

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The landlords' petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence, as the tenant is only temporarily away from the unit while waiting for his Visa application to be granted. On appeal, the landlords maintain that: the tenant cannot be a "Tenant in Occupancy because he does not currently reside in the United States and is legally prohibited from doing so; and the landlords' representative did not have a chance to cross-examine the tenant or the maker of a Declaration on his behalf, because they did not appear at the hearing.

MSC: To deny the landlord's appeal and vacate that portion of the Decision that finds that tenant Budding is a "Tenant in Occupancy." (Justman/Marshall: 3-2; Gruber, Hurley dissenting)

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The tenant's petition alleging decreased housing services in this single room occupancy hotel was granted, in part, and the landlord was found liable to the tenant in the amount of \$150.00 due to the presence of bedbugs in the unit for three months. The tenant appeals the decision, claiming that: sheets, towels and pillow cases used to be provided on a weekly basis and a vacuum cleaner was available for tenants' use; the toilets in the building constantly malfunction; the showers are filthy and unsafe; and the Administrative Law Judge exhibited bias on behalf of the landlord.

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2201 Pacific Ave. #601

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The landlord's petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit was the tenant's principal place of residence. The landlord appealed the decision, and the Rent Board Commissioners voted to vacate the decision and remand the case to the ALJ to find that the tenant is not a "Tenant in Occupancy." The tenant appealed the remand decision, maintaining that: the documentary evidence shows that the subject unit is the tenant's principal place of residence and usual place of return; the fact that the tenant is married, and her husband resides in Sausalito, should not result in her case being decided differently than if she were single; the Ordinance requires that reversal of a decision is only permitted after an appeal hearing; the landlord failed to meet its burden of proof; the tenant never signed the application for the homeowner's property tax exemption her husband takes on the Sausalito property; the tenant is her mother's primary caregiver at the subject unit; and the Commissioners exhibited bias against an alternative living arrangement in reversing the original decision in this case. At the meeting on June 7, 2005, the Board accepted the landlord's appeal for an appeal hearing before the Board. Prior to the scheduled hearing, the parties reached a settlement agreement which was approved by the Board pursuant to the below motion.

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C. An article from the July 21st S.F. Examiner regarding Judge Mitchell's ruling that the owners of a building on Francisco Street violated the State's Subdivided Lands Act in creating tenancies in common (TICs) in this six-unit building.

VII. Director's Report (Note: amount of rental unit fee corrected from first version of Minutes)

Executive Director Delene Wolf informed the Board that this year's rental unit fee will be \$20.00 for residential units and \$10.00 for residential hotel rooms, a \$2.00 reduction from last year. The fee will be assessed on the November 1st property tax bills and landlords can collect 50% of the amount from any tenant in residence as of November 1st.

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Landlord Leon Ribay of the property at 742 Treat Ave. (AL050187) told the Board that he is a senior citizen who has "done his best." Mr. Ribay believes that he helped the tenants by reducing the amount of the capital improvement passthrough; that the decision constitutes an injustice; and said that he will have to sell the building in order to pay the tenants the amount ordered owing in the decision.

IX. Calendar Items

August 9, 16, 23 & 30, 2005 - NO MEETINGS

September 6, 2005

9 appeal considerations (including several from Parkmerced)

X. Adjournment

President Wasserman adjourned the meeting at 7:05 p.m.



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**NOTICE THAT THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

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AUG 12 2005

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**SCHEDULED FOR TUESDAY,
AUGUST 16, 2005, HAS BEEN
CANCELLED**

06-12-05 AUG 12 2005

**THE NEXT REGULAR MEETING WILL BE HELD ON
TUESDAY, SEPTEMBER 6, 2005 AT 6:00 P.M.**





**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
September 6, 2005
25 Van Ness Avenue, #70, Lower Level

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AGENDA

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ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 2671 - 21st St.

AT050192

The tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

B. 856 Presidio Ave., Apt. #2

AT050191

The tenant appeals the decision certifying capital improvement costs, alleging financial hardship.

C. 1221 Folsom St.

AL050190

The Master Tenant appeals the remand decision granting his financial hardship claim, asking that repayment of his liability to the tenant commence at a later date.

D. 17 Decatur, Apt. #8

AT050193 thru -95

The tenants appeal three decisions certifying capital improvement costs on the grounds of financial hardship.

E. 747 Ellis #15

AT050189

The tenant untimely appeals the decision certifying capital improvement costs.

F. 206-208 Dorland

AL050215

The landlord appeals the decision certifying capital improvement costs, disputing the allocation method used by the Administrative Law Judge.

G. 3933 Mission St. #4

AT050196

The tenant appeals the decision certifying capital improvement costs.

H. 157 Beaver St.

AL050214

The landlord appeals the decision determining that the unit is the tenant's principal place of residence pursuant to Rules Section 1.21.

I. Parkmerced

AT050197-0213

Seventeen tenants appeal decisions certifying capital improvement costs; twelve on substantive grounds, and five alleging financial hardship.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment



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VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

Tuesday, September 6, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

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SEP 16 2005

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ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:06 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Justman;
Mosbrucker; Mosser; Wasserman.
Commissioners not Present: Hurley.
Staff Present: Wolf.

Commissioner Marshall appeared on the record at 6:11 p.m.; Commissioner
Murphy arrived at 6:13 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 2, 2005.
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Landlord Attorney Andrew Zacks, representing the landlord in the case at 157 Beaver St. (AL050214), told the Board that the landlord's petition requested a determination as to the tenant's status under Rules Section 1.21 and Costa-Hawkins. As a determination was made regarding the applicability of §1.21 only, Mr. Zacks told the Board that the case should be remanded for Costa-Hawkins findings. Mr. Zacks also expressed his belief that, in accordance with prior Rent Board decisions, the tenant does not reside in the subject unit as his principal place of residence.

B. Landlord Brett Eilers of 2671 - 21st St. (AT050192), whose tenants filed a financial hardship appeal, told the Board that he fixed up a run-down building and filed a capital improvement petition to recoup some of his expenses. Mr.

Eilers did not believe he should have to divulge all of his personal financial information in order to claim landlord hardship, as it's "not worth the risk."

V. Consideration of Appeals

A. 2671 – 21st St.

AT050192

The landlords' petition for certification of capital improvement costs for one of two units was granted, resulting in a monthly passthrough in the amount of \$30.81. The tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenants' claim of financial hardship. (Gruber/Mosser: 5-0)

B. 856 Presidio Ave., Apt. #2

AT050191

The landlords' petition for certification of capital improvement costs to three of six units was granted, resulting in a monthly passthrough in the amount of \$28.30. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Murphy: 5-0)

C. 1221 Folsom St.

AL050190

Two subtenants filed petitions alleging that they paid a disproportionate share of the rent pursuant to Rules Section 6.15C(3). The petitions were granted and the Master Tenant was found liable to the subtenants in the amount of \$1,699.06 and \$1,431.22. The Master Tenant's hardship appeal was granted, and a repayment plan commencing August 1, 2005 was established. The Master Tenant appeals the remand decision, claiming that financial emergencies have adversely impacted his ability to pay, and asking that the payment plan begin after January, 2006.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to make the commencement date of the repayment plan the next business day after February 1, 2006. (Becker/Justman: 5-0)

D. 17 Decatur, Apt. #8

AT050193 thru -95

The landlord filed three petitions for certification of capital improvement costs, which were granted. The tenants in one unit appeal the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenants' claims of financial hardship. (Marshall/Becker: 5-0)

E. 747 Ellis #15

AT050189

The tenant's appeal was filed almost three years late because the tenant was managing to pay the rent before, but can no longer afford the phased-in capital improvement amount. The tenant also does not remember receiving the decision at the time it was issued, and did not know he had the right to appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Justman: 5-0)

The landlord's petition for certification of capital improvement costs for eight of fourteen units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

F. 206-208 Dorland

AL050215

The landlord's petition for certification of capital improvement costs to two of three units was granted. On appeal, the landlord claims that the costs of a new back wall and stair should be allocated to the two units in the building that have access to the stairs, because the other two units are not in the same structure where the work was performed. The landlord also appeals the equal allocation of costs between the residential and commercial units, because the commercial unit is smaller.

MSC: To accept the appeal and remand the case to the Administrative Law Judge only to determine whether the affected units are in the same building; a hearing will be held only if necessary.
(Marshall/Becker: 5-0)

G. 3933 Mission St. #4

AT050196

The landlords' petition for certification of capital improvement costs to three of four units was granted. The tenant in one unit appeals the decision on the grounds that: the tenants in the building helped pay for repair of the garage door;

and the landlord may have been reimbursed by her insurance company for construction of the new back yard fence.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the issue of whether the tenants helped to pay for any of the capital improvement work; and to determine whether any of the landlord's costs were compensated by insurance. (Marshall/Becker: 5-0)

H. 157 Beaver St.

AL050214

The landlord's petition for a determination pursuant to Rules Sections 1.21, 6.14 and Costa-Hawkins was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence. The landlord appeals the decision on the grounds that the tenant claims a homeowner's exemption on a property in Palm Springs, which proves that the subject unit is not his principal place of residence.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing to take further evidence on whether the unit is the tenant's principal place of residence, including whether he takes a homeowner's interest deduction for the Palm Springs residence on his Federal and State income tax returns, and whether he has reported any income he receives from the Palm Springs residence. (Murphy/Gruber: 4-1; Marshall dissenting)

I. Parkmerced

AT050197-0213

The appeals of the tenants at 355 Serrano Drive #6M and 405 Serrano Drive #3E and 11J were filed two or three days late.

MSC: To recuse Commissioner Becker from consideration of these appeals. (Henderson/Justman: 5-0)

MSC: To find good cause for the late filing of the appeals. (Marshall/Gruber: 5-0)

Fourteen tenants appealed decisions certifying capital improvement costs for eleven tower buildings at this multi-unit complex; twelve on substantive grounds and five claiming financial hardship. The tenant at 405 Serrano Drive #10C subsequently withdrew her appeal. The tenants at 55 Chumaseero #11H and 6K, 750 Gonzalez #7E and 1M and 405 Serrano #5D appeal on the grounds of financial hardship. Eight tenants of 405 Serrano Drive appealed because they do

not want to pay the retroactive amounts owed since March 1, 2004. The tenant at 405 Serrano Drive #5D claims that the Administrative Law Judge failed to require the landlord to submit adequate proof of cost and payment, particularly those labor costs associated with employees of the landlord. The tenant at 55 Chumasero #6K appeals because her January 2005 lease renewal included the proposed passthrough, which had not yet been approved. The tenant at 355 Serrano #6M appeals on the grounds that her rent has gone up in excess of the annual allowable amounts and the landlord should not be entitled to any more passthroughs. The tenant at 405 Serrano #7A maintains that she should only have to pay the retroactive amounts owed from the date of her October 1, 2004 lease renewal, and not from the March 1st effective date of the landlord's notice of rent increase.

MSC: To deny the substantive appeals filed by the tenants at 55 Chumasero Drive #6K, 355 Serrano Drive #6M, and 405 Serrano Drive #7A, 12B, 5D, 12D, 3E, 12F, 10G, 11G, and 11J. (Gruber/Murphy: 5-0)

MSC: To accept the appeal of the tenants at 55 Chumasero Drive #11H and remand the case for a hearing on the tenants' claim of financial hardship. (Henderson/Murphy: 5-0)

MSC: To accept the appeal of the tenants at 55 Chumasero Drive #6K and remand the case for a hearing on the tenants' claim of financial hardship. (Gruber/Murphy: 5-0)

MSC: To accept the appeal of the tenant at 750 Gonzalez Drive #7E. (Gruber/Henderson: 5-0)

MSC: To accept the appeal of the tenants at 750 Gonzalez Drive #1M and remand the case for a hearing on the tenants' claim of financial hardship. (Gruber/Murphy: 5-0)

MSC: To accept the appeal of the tenants at 405 Serrano Drive #5D and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Gruber: 5-0)

VI. Communications

In addition to correspondence regarding cases on the calendar, the Board received the following communications:

A. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

B. Two articles regarding Ellis evictions from Beyond Chron.

C. The office workload statistics for the month of July, 2005.

D. An article by landlord Jim Forbes in the July SF Apartment Magazine extolling the merits of rent control.

VII. Director's Report

Executive Director Delene Wolf informed the Board that Supervisor Elsbernd had introduced a motion at the Board of Supervisors to have the legislative analyst look into the issue of means testing for rent control; the motion failed for lack of support. Ms. Wolf also told the Board that she met with representatives from the Small Property Owners of San Francisco; she would be the guest speaker at a luncheon meeting of the Professional Property Managers Association on September 9th; and she would be attending a District 6 Town Hall Meeting with the Mayor on September 10th.

VIII. New Business

President Wasserman announced that she would begin working as Real Estate Counsel for the Nature Conservancy on September 12th.

IX. Calendar Items

September 13, 2005 - NO MEETING

September 20, 2005

5 appeal considerations

X. Adjournment

President Wasserman adjourned the meeting at 7:25 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
September 20, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SEP 16 2005

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09-15 3:11 PM

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1550 Bay St. #C135 AL050217

The landlord appeals the remand decision granting a claim of tenant hardship.

B. 1860 Jackson St., #103 AT050218

The tenant appeals the decision denying his claim of decreased housing services.

C. 237 Parque Dr. AL050216

The landlord appeals the decision granting a claim of unlawful rent increase.

D. 1438 Jefferson AT050219

The tenant appeals the decision granting a claim of unlawful rent increases.

E. 338 Connecticut St. AT050220

The tenant appeals the decision certifying capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

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Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



GAVIN NEWSOM
MAYOR

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, September 20, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

DOCUMENTS DEPT.

Vice-President Marshall called the meeting to order at 6:09 p.m.

OCT 17 2005

II. Roll Call

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Commissioners Present: Becker; Gruber; Hurley; Justman; Marshall.
Commissioners not Present: Henderson; Mosbrucker; Mosser; Murphy;
Wasserman;
Staff Present: Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of September 6, 2005 with the following
correction: on page 5, concerning the appeal of the tenant at
750 Gonzalez Drive #7E, the motion should read as follows:
"To accept the appeal of the tenant at 750 Gonzalez Drive #7E
and remand the case for a hearing on the tenant's claim of
financial hardship." (new language underlined)
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. Tenant Phillip Flores of 237 Parque Drive (AL050216) brought in
additional documents that he had just obtained yesterday, and said that he "just
wants to have an answer and have the case settled."

B. Landlord Vladimir Eydelshiteyn of 237 Parque Drive told the Board that
the tenant's rent was increased based on additional housing services he
received, but that he hasn't received full rent from the tenant for the past six
years. He told the Board that the tenant is actually a Master Tenant who took a
subtenant to court for non-payment of rent. Mr. Eydelshiteyn believes this proves
that the tenant had an extra room that he was making money off of.

V. Consideration of Appeals

A. 1550 Bay St. #C135

AL050217

The landlord's petition for certification of capital improvement costs was granted, in part. The tenants in one unit appealed the decision on the grounds of financial hardship, and the case was remanded for a hardship hearing. The Administrative Law Judge found sufficient hardship to warrant permanent deferral of the approved passthrough. The landlord appeals the remand decision, claiming that: the tenants do not meet the criteria for hardship; one of the tenants receives cash income from working construction jobs and lied under penalty of perjury at the remand hearing; and the other tenant chooses to work two days per week, rather than full time.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record only to provide that the landlord may re-open the case in no less than two years if she has reason to believe that the tenants' financial circumstances have changed. (Becker/Gruber: 5-0)

B. 1860 Jackson St. #103

AT050218

The tenant's petition alleging decreased housing services due to a broken hall closet door and inconvenience associated with a tandem parking space was denied. The tenant appeals on the grounds that: having to move another tenant's car every time he leaves his parking space constitutes a substantial inconvenience, not experienced by any other tenant in the building; it is reasonable to expect that the other tenant should be able to move his standard transmission automobile; the landlord has failed to reasonably accommodate him by forcing another tenant in the building to trade parking spaces with him; and the landlord should not be entitled to recover attorney's fees associated with the Rent Board hearing, as it is not a "legal action or proceeding," nor does it involve enforcement of any part of the lease.

MSC: To deny the appeal but have the Executive Director send a letter to the landlord's attorney clarifying that Rent Board policy does not allow for the award of attorney's fees to the prevailing party in a Rent Board proceeding, and that the Rent Board will ask the Office of the City Attorney to intervene should the landlord pursue the issue of attorney's fees. (Hurley/Gruber: 5-0)

C. 237 Parque Dr.

AL050216

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$12,200.00. The landlord appeals, claiming that: the rent increase was based on additional housing services; the tenant agreed to pay for all utilities for the unit, which he has failed to do; and the tenant is collecting rent and acting as a Master Tenant.

After discussion, it was the consensus of the Board to continue consideration of this appeal in order to obtain a Memorandum from the Administrative Law Judge.

D. 1438 Jefferson St.

AT050219

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$24,888.60. The tenant appeals the decision, maintaining that an increase of less than .5% in excess of limitations should have been declared null and void because it was not given in a good faith attempt to comply with the Ordinance.

MSC: To deny the appeal. (Gruber/Hurley: 3-2; Becker, Marshall dissenting)

E. 338 Connecticut St.

AT050220

The tenant's appeal was filed almost four months late because the tenant claims to have been misinformed by the landlord regarding the requirements for certification of capital improvement costs.

MSC: To find good cause for the late filing of the appeal.
(Becker/Justman: 4-1; Gruber dissenting)

The landlord's petition for certification of capital improvement costs to one unit was granted, resulting in a monthly passthrough in the amount of \$92.48. The tenant appeals the decision, claiming that: the work was necessitated by the landlord's failure to perform routine repair and maintenance; the tenant has been paying a rent increase to cover the costs of the improvements; the Rent Board should have pre-approved the work because the costs were in excess of \$25,000; and the tenant suffered a substantial decrease in services when the rear stairs and deck were being rebuilt.

MSC: To deny the appeal without prejudice to the tenant offsetting from future rental payments any amounts she has paid in excess of the approved capital improvement passthrough.
(Justman/Hurley: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of August, 2005.

B. Articles from Beyond Chron regarding two recent court rulings in cases regarding Ellis evictions, and a task force on Ellis evictions being convened by Supervisor Peskin and Mayor Newsom.

C. A Memorandum from City Attorney Dennis Herrera regarding political activity by City officers and employees.

D. A Water Revenue Bond Passthrough Worksheet and brochure addressing frequently asked questions on water bond passthroughs authored by Senior Administrative Law Judge Sandy Gartzman, with assistance from Senior Administrative Law Judge Tim Lee. The Commissioners wished to commend Ms. Gartzman and Mr. Lee on their exceptional work.

IV. Remarks from the Public (cont.)

C. Tenant John Hooper of 1860 Jackson St. #103 (AT050218) expressed his belief that the Board should have looked more carefully at the inconvenience he experienced before denying his appeal. Mr. Hooper also told the Board that no one had mentioned any potential liability for the landlord's attorney's fees, which he cannot afford to pay. Mr. Hooper said that if he had known about this possibility, he would not have filed the petition.

VIII. Calendar Items

September 27th, October 4th & 11th, 2005 - NO MEETINGS

October 18, 2005

5 appeal considerations (1 cont. from 9/20/05)

New Business: Residential Hotel Visitor Policy

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:22 p.m.



GAVIN NEWSOM
MAYOR

SHARON K. WASSERMAN
PRESIDENT

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE THAT THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

**SCHEDULED FOR TUESDAY,
OCTOBER 4, 2005, HAS BEEN
CANCELLED**

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cancelled
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**THE NEXT REGULAR MEETING WILL BE HELD ON
TUESDAY, OCTOBER 18, 2005 AT 6:00 P.M.**

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**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
ACTING EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
October 18, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

OCT 17 2005

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10-17-05 P02 00 REV

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 237 Parque Dr. AL050216
(cont. from 9/20/05)

The landlord appeals the decision granting a claim of unlawful rent increase.

B. 4272A - 23rd St. AL050222

The Master Tenant appeals the decision determining liability for unauthorized utility charges pursuant to Rules Section 6.15C(3).

C. 128 Garces Dr. AT050221

The tenant appeals the decision certifying capital improvement costs.

D. 3024 Fulton #10 AT050223

The tenant appeals the decision denying a comparables petition as moot but determining that the amount sought was the tenant's initial base rent.

E. 249 Dolores St.

AL050224

The landlord appeals the decision denying a rent increase pursuant to Rules Sections 1.21, 6.14 or Costa-Hawkins.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Residential Hotel Visitor Policy

X. Calendar Items

XI. Adjournment



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SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, October 18, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

NOV 14 2005

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I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;
Justman; Marshall; Mosser.
Commissioners not Present: Mosbrucker; Wasserman.
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:10 p.m. Commissioners
Justman and Mosser went off the record at 7:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 20, 2005.
(Gruber/Hurley: 5-0)

IV. Remarks from the Public

A. Tenant Julian Lagos of 128 Garces Dr. (AT050221) read from a
prepared statement in which he asked that Commissioners who have
associations with his landlord, specifically Commissioner Murphy, recuse
themselves from consideration of his appeal. Mr. Lagos requested that the
Board refer his landlord to the District Attorney for perjury and asked that they
take into account facts that the Administrative Law Judge allegedly ignored.

B. Tenant Phillip Flores of 237 Parque Drive (AL050216) told the
Commissioners that he has submitted a great deal of legal evidence, while the
landlord has submitted none. Mr. Flores suggested that the Board call the
Department of Building Inspection to find out that the landlord "continues to

perjure himself." Mr. Flores also believes that having to pay extra for a service one already has is the equivalent of "taxation without representation."

C. Jeff Chen, attorney for the landlord in the case at 237 Parque Drive, submitted a lease for the premises from 1999 that the landlord "hadn't known he had." Mr. Chen said that the Administrative Law Judge subsequently changed his decision, and that it was "outrageous" to have made a decision based on a grammatical error. He asked that the case be remanded to a different Administrative Law Judge.

V. Consideration of Appeals

A. 237 Parque Dr.

AL050216
(cont. from 9/20/05)

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$12,200.00. The landlord appeals, claiming that: the rent increase was based on additional housing services; the tenant agreed to pay for all utilities for the unit, which he has failed to do; and the tenant is collecting rent and acting as a Master Tenant. After discussion at the September 20th meeting, it was the consensus of the Board to continue consideration of this appeal in order to obtain a Memorandum from the Administrative Law Judge.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the issue of whether the downstairs bedroom was an additional housing service agreed to by the parties after the inception of the tenancy and for a necessary Technical Correction. (Gruber/Hurley: 5-0)

B. 4272A – 23rd St.

AL050222

The subtenant filed a petition seeking a determination of his lawful rent pursuant to Rules Section 6.15C(3) and alleging an unlawful rent increase. The Administrative Law Judge found that the tenant was not charged more than his proportional share of the rent during his tenancy, but that the Master Tenant was liable to the subtenant in the amount of \$222.78 for unauthorized utility charges. On appeal, the Master Tenant claims that the subtenant was charged for utilities only after he violated the original agreement calling for "moderate" use of utilities; and that the subtenant has failed to reimburse the Master Tenant monies that he owes her.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for a necessary Technical Correction. (Becker/Justman: 5-0)

C. 128 Garces Dr.

AT050221

The landlord's petition for certification of the costs of a new roof was granted, resulting in a monthly passthrough in the amount of \$21.36. The tenant appeals the decision, arguing that: the landlord did not make timely efforts within ninety days to replace or repair the roof after a NOV had been issued; the landlord's deferred maintenance resulted in a second NOV being issued; and the landlord's representatives committed perjury at the hearing, and their credibility was therefore irreparably impeached.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Gruber: 5-0)

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Henderson, Marshall dissenting)

D. 3024 Fulton #10

AT050223

The landlord's petition for a rent increase based on comparable rents was denied as moot. The Administrative Law Judge found that the amount sought by the landlord, \$1,750.00, was the initial base rent of the tenant, who previously had been a co-owner of the property. On appeal, the tenant argues that: the tenancy commenced in 1997 rather than 2004 because payments between co-owners can serve to create a landlord-tenant relationship; the fair market value of the unit was between \$1,100.00 and \$1,200.00, rather than \$1,750.00; the tenant never agreed to pay \$1,750.00 as a condition of the sale to the current owner; and the subject unit has one bedroom, rather than two.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

E. 249 Dolores St.

AL050224

The landlord's petition seeking a determination pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence. On appeal, the landlord maintains that: the tenant entered into written leases for other rental units, obtained work and moved her personal possessions to Santa Cruz while attending college there; the tenant had never paid rent for the subject unit and a 6.14 notice was timely served upon her after her first rent check was tendered; the makers of Declarations on behalf of the tenant were not at the hearing and

not subject to cross-examination; and the tenant should have to demonstrate the financial ability to have maintained the subject unit during her absence, or her rights should terminate.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An article from the October 4th S.F. Examiner regarding the sale of the Villas Parkmerced.

B. Articles from Beyond Chron regarding proposed legislation by Supervisor Duffy to encourage condo conversions and proposed legislation by Supervisor Daly to increase oversight of condo conversions where tenants have been evicted.

C. An article from the October 9th Chronicle regarding the availability of individual loans for purchasers of TICs.

D. A letter from landlord Evelyn Adler asking the Board to simplify the process for passing through increased utility costs to tenants.

E. An Invitation to the Mayor's annual State of the City Address.

F. A copy of the City's Policy on Discriminatory or Harassing Remarks Made at Public Meetings of City Boards and Commissions.

G. A copy of the Rent Board's Annual Statistical Report for Fiscal Year 2004-2005.

VII. Director's Report

Executive Director Wolf informed the Board that Civil Code Section 1946.1 will be repealed on January 1, 2006, at which time a landlord will be able to terminate a month-to-month tenancy upon 30 days notice. Ms. Wolf also told the Board she would be attending a Town Hall meeting with the Mayor in the South of Market neighborhood on Saturday, October 22nd.

VII. Calendar Items

October 25th, November 1st & 8th, 2005 - NO MEETINGS

November 15, 2005

9 appeal considerations

VIII. Adjournment

Vice-President Marshall adjourned the meeting at 7:22 p.m.



GAVIN NEWSOM
MAYOR

SHARON K. WASSERMAN
PRESIDENT

DELENE WOLF
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

NOTICE THAT THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

SCHEDULED FOR TUESDAY,
NOVEMBER 1, 2005, HAS BEEN
CANCELLED

52
1
11/05
cancelled
2

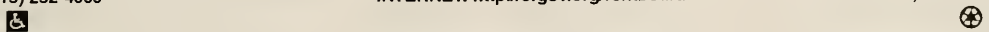
THE NEXT REGULAR MEETING WILL BE HELD ON
TUESDAY, NOVEMBER 15, 2005 AT 6:00 P.M.

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NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
November 15, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

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LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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11-14-05 A11-14 RLYD

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 610 Hyde #205, 303, 306 & 606 AT050234 thru -37

The tenants in four units appeal the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1831 Polk St. #111 AT050233

The tenant in one unit appeals the Minute Order certifying capital improvement costs on the grounds of financial hardship.

C. 270 McAllister St. AT050231

The tenant appeals the dismissal of his petition alleging decreased housing services due to lack of jurisdiction.

D. 959 Powell #1 AT050228

The tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship

E. 248 Golden Gate Ave. #E AL050229

The landlord appeals the remand decision granting a tenant's claim of financial hardship.

F. 1117 Guerrero #5

AL050230

The landlord appeals the decision granting claims of decreased housing services.

G. 901 Treat Ave. #1

AT050226

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

H. 2924 Octavia St.

AL050227

The Master Tenant appeals the decision granting claims by two subtenants that they were being charged a disproportional share of the rent pursuant to Rules Section 6.15C(3).

I. 442B Vallejo St.

AL050232

The landlord appeals the remand decision disallowing a rent increase pursuant to Rules Section 1.21.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.
- IX. New Business
- X. Calendar Items
- XI. Adjournment



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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de pesentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

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Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, November 15, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON I.

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY II.

Call to Order

Commissioner Gruber called the meeting to order at 6:05 p.m.

Roll Call

Commissioners Present:

Becker; Gruber; Henderson; Hurley;
Justman; Mosbrucker; Mosser;

Commissioners not Present:

Marshall; Wasserman.

Staff Present:

Lee; Wolf.

Commissioner Murphy appeared on the record at 6:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 18, 2005.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. Tenant Vance Elliott of the Baldwin Hotel asked how he could qualify as a Master Tenant.

B. Landlord Hannah Pierce of the case at 442B Vallejo St. (AL050232) said that the Decision of the Administrative Law Judge allows two individuals who do not qualify to get the benefits of rent control. Ms. Pierce believes that it was not the intention of the legislature that a person who is not a "Tenant in Occupancy" could be deemed to permanently reside in a rental unit.

C. Master Tenant Josh Huster of 2924 Octavia St. said that the allocation of rent in a roommate situation involves more than just the division of the rent for the unit; services, such as furniture, should also be factored in. Mr. Huster also

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stated his belief that decisions should be consistent in valuing services, and that either actual cost or market value should be used

V. Consideration of Appeals

A. 610 Hyde St. #205, 303, 306 & 606

AT050234 thru -37

The landlords' petition for certification of capital improvement costs to 15 of 36 units was granted, resulting in a monthly passthrough in the amount of \$34.44. Four tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #205 and remand the case for a hearing on the tenant's claim of financial hardship.
(Mosbrucker/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #303 and remand the case for a hearing on the tenant's claim of financial hardship.
(Mosbrucker/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #306 and remand the case for a hearing on the tenant's claim of financial hardship.
(Mosbrucker/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #606 and remand the case for a hearing on the tenant's claim of financial hardship.
(Mosbrucker/Becker: 5-0)

B. 1831 Polk #111

AT050233

The landlord's petition for certification of capital improvement costs to 10 of 24 units was granted. The tenant in one unit appeals the Minute Order on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosbrucker: 4-1; Gruber dissenting)

C. 270 McAllister St.

AT050231

The tenant's petition alleging decreased housing services was dismissed because the Department of Human Services regulates the rent on the tenant's unit and the Rent Board has no jurisdiction over the property. The tenant appeals, asking where he can pursue his claims.

MSC: To deny the appeal but instruct staff to write a letter providing the tenant with information as to where he can pursue his claims.
(Justman/Gruber: 5-0)

D. 959 Powell #1

AT050228

The landlord's petition for certification of capital improvement costs to 6 of 12 units was granted. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Mosbrucker: 3-2; Gruber, Murphy dissenting)

E. 248 Golden Gate Ave. #E

AL050229

The tenant's appeal of a decision certifying capital improvement costs was granted, as the Administrative Law Judge found sufficient financial hardship to warrant permanent deferral of the passthrough. On appeal, the landlord argues that the passthrough should not be permanently deferred since the tenant's income will increase when he turns sixty-five.

MSC: To accept the appeal and remand the case for a hearing in May of 2007 on the tenant's financial circumstances at that time.
(Gruber/Murphy: 3-2; Becker, Mosbrucker dissenting)

F. 1117 Guerrero #5

AL050230

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$556.40. On appeal, the landlord claims that: there was no reduction in services, because the services in question did not exist at the inception of the tenancy, were not promised, nor were they reasonably to be expected; the tenants did not notify the landlord regarding the alleged lack of services; the landlord was not given time to effectuate repairs; the tenants were already paying a reduced amount of rent for an "as is" unit; the amount of the rent reductions is arbitrary; the time period granted for the rent reductions does not correspond to the length of the tenancy; the tenants received additional housing services for which they paid no consideration; the housing services are minor and not substantial; Notices of Violation are routinely issued and should not be dispositive; the tenants caused the damage to the kitchen ceiling; the rear doors were repaired in a timely manner; the kitchen window lock was not broken; and the lighting on the rear stairs and in the basement was sufficient.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to terminate the rent reduction granted for loss of the right to barbecue as of January 12, 2005 and to reverse the \$12.50 granted for the window lock; to deny the appeal as to all other issues. (Mosbrucker/Becker: 4-1; Gruber dissenting)

G. 901 Treat Ave. #1

AT050226

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. The tenant appeals, stating that she was not feeling safe at her unit due to problems with the relative of another tenant in the building.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for another hearing. Should the tenant fail to appear at the remand hearing, no further hearings will be granted, absent extraordinary circumstances. (Becker/Murphy: 4-1; Gruber dissenting)

H. 2924 Octavia St.

AL050227

Two subtenant petitions alleging payment of a disproportionate share of the rent pursuant to Rules Section 6.15C(3) were granted, and the Master Tenant was found liable to the subtenants in the amounts of \$740.84 and \$2,010.06. On appeal, the Master Tenant claims that: square footage is not the only allowable method for apportioning rent payments under the Rules and Regulations; the Administrative Law Judge erred as to the amount of rent paid to the landlord; the bedrooms in the unit should be differently valued based on their location and features; the Administrative Law Judge under-valued or failed to value many of the services provided by the Master Tenant; and the garage should be valued at the \$100 amount set by the landlord at the inception of the tenancy.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Murphy/Justman: 5-0)

MSC: To deny the appeal. (Mosbrucker/Gruber: 5-0)

I. 442B Vallejo St.

AL050232

The landlords' petition for a determination pursuant to Rules Section 1.21 was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence, as the tenant is only temporarily away from the unit while waiting for his Visa application to be granted. The landlord

appealed, and the Board denied the appeal but remanded the case to the Administrative Law Judge to vacate that portion of the decision that found the tenant to be a "Tenant in Occupancy." The landlord appeals the remand decision, arguing that: the tenant cannot permanently reside in the subject unit because he is not a Tenant in Occupancy, and the terms are interchangeable; the tenant's legal status as a temporary visitor to the United States precludes the subject unit from being his principal place of residence; and the tenant lives in Germany, has only spent eight weeks in the unit in the last two years, and pays only 1/10th of the monthly rent.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to find that the tenant no longer permanently resides in the subject unit based on the facts of this case.
(Murphy/Gruber: 3-2; Mosbrucker, Becker dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. The office workload statistics for the month of September, 2005.
- B. Several articles from Beyond Chron.
- C. An article from the October 2005 S.F. Apartment Magazine by Andrew Sirkin regarding individual TIC loans.

VII. Director's Report

Executive Director Wolf reminded the Commissioners that their holiday dinner will take place at Indigo after the Board meeting on December 13th; and the staff holiday party will be at noon on December 15th at Don Ramon's.

IV. Remarks from the Public (cont.)

D. Allan White told the Board that he believes there are several problems with the current Residential Hotel Visitor Policy, including: the Policy states that, if there's a problem, tenants or visitors should "visit" the Rent Board or the police; hotel employees should not be allowed to retain IDs; the policy isn't posted at the majority of hotels; and visitors have no remedy at the Rent Board because they are not tenants.

E. Landlord Morko Korzowsky of 1117 Guerrero #5 (AL050230) expressed his disappointment that he put hours of his time into his appeal, but he felt that

his "words weren't heard" and the issues he raised weren't addressed. Mr. Korzowsky said that he pursued the appeal to preserve his reputation, since he had been accused of being a "liar and oppressor." Mr. Korzowsky also told the Commissioners that a DBI Notice of Violation should not be dispositive in a Rent Board case.

VIII. Calendar Items

November 22nd, 29th and December 6th, 2005 - NO MEETINGS

December 13, 2005

IX. Adjournment

Commissioner Gruber adjourned the meeting at 7:50 p.m.



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
December 13, 2005
25 Van Ness Avenue, #70, Lower Level

AGENDA

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12-02-05A10:18 RCVD

LARRY BEACH BECKER
DAVID GRUBER
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 839 Rutland St. AT050239

The tenant appeals the dismissal of her petition alleging an unlawful rent increase due to her failure to appear at the hearing.

B. 48 Annapolis Terr. AT050238

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 610 Hyde St. #403 AT050240

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship

D. 522 Fell St. #2 AT050241

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

E. 1000 Chestnut #3B & 2F AT050242 & -43



The tenants in two units appeal the decision certifying capital improvement costs on the grounds of financial hardship

F. 945 Larkin St. #54

AT050244

The tenant appeals the dismissal of her petition alleging decreased housing services because the claims had been decided in a previous case.

G. 21 Beulah

AL050245

The landlord appeals the decision granting a claim of unlawful rent increase.

H. 971 Guerrero St.

AL050246

The landlord appeals the decision denying a Petition for Extension of Time to Do Capital Improvement Work.

- VI. Communications
 - VII. Director's Report
 - VIII. Old Business
 - IV. Remarks from the Public (cont.)
- NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**
- IX. New Business
 - X. Calendar Items
 - XI. Adjournment



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POLLY MARSHALL
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
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STABILIZATION & ARBITRATION BOARD,**

Tuesday, December 13, 2005 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

LARRY BEACH BECKER

DAVID GRUBER

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present:

Becker; Gruber; Henderson; Hurley;
Mosbrucker; Mosser; Wasserman.

Staff Present:

Lee; Wolf.

Commissioner Marshall appeared on the record at 6:16 p.m.; Commissioner Justman arrived at the meeting at 6:19 p.m.; and Commissioner Murphy appeared at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 15, 2005.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. Tenant Michael Lewis of 522 Fell St. #2 (AT050241) told the Board that the letter submitted by the landlord did not state the correct amount of rent that the tenants are paying.

V. Consideration of Appeals

A. 839 Rutland St.

AT050239

The tenant's petition alleging an unlawful rent increase was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant explains that she mis-read the notice time, and came in for the 9:00 hearing at 1:00 p.m.

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MSC: To accept the appeal and remand the case for a new hearing.
Should the tenant again fail to appear no further hearings will be granted, absent extraordinary circumstances.

B. 48 Annapolis Terr.

AT050238

The landlord's petition for certification of capital improvement costs to the tenant in one unit in a two-unit building was granted, resulting in a monthly passthrough in the amount of \$62.21. The tenant appeals the decision on the grounds of financial hardship.

MSC: To deny the appeal. (Gruber/Hurley: 3-2; Becker, Marshall dissenting)

C. 610 Hyde St. #403

AT050240

The landlords' petition for certification of capital improvement costs to fifteen of thirty-six units was granted, resulting in a monthly passthrough in the amount of \$34.44. The tenant in one unit appeals on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 5-0)

D. 522 Fell St. #2

AT050241

The landlord's petition for rent increases to the tenants in two of six units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 4-1; Gruber dissenting)

E. 1000 Chestnut 3B & 2F

AT050242 & -43

The landlord's petition for certification of capital improvement costs to twenty-six of eighty-four units was granted. The tenants in two units appeal the Decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenants in unit #3B and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #2F and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

F. 945 Larkin St. #54

AT050244

The tenant's petition alleging decreased housing services was administratively dismissed because the tenant's claims concerning lack of heat were previously decided in another case. The tenant appeals, claiming that: there were errors in the prior Decision; and she should have been allowed to pursue her claim against the prior, rather than the successor landlord, since that was who was responsible for the lack of heat in the unit.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 21 Beulah

AL050245

The tenant's petition alleging an unlawful increase in rent from \$786.18 to \$2,500.00 per month was granted. The Administrative Law Judge found that the landlord failed to prove that a 6.14 notice, or its equivalent in 1982, was served on the tenant within a reasonable time of actual knowledge of his occupancy in the subject unit. On appeal, the landlord claims that: the landlord's known practice of issuing 6.14 notices during the subject time period should be sufficient to demonstrate that the tenant received such an Addendum to his lease; it is unreasonable for the landlord to have to produce a document created more than twenty years ago; the issuance of a 6.14 notice was not required; it is a violation of substantive due process to transfer the benefits of rent control to this subsequent occupant when the unit has not been decontrolled for over twenty-five years; and the landlord is entitled to a rent increase based on extraordinary circumstances.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

H. 971 Guerrero St.

AL050246

The landlords' Petition for Extension of Time to Do Capital Improvement Work was denied because the landlords failed to file the Petition immediately upon knowing that the project would be delayed due to the continued occupancy of one of the units in the building. The landlords appeal, maintaining that: it is not within the jurisdiction of the Administrative Law Judge to decide what the word "immediately" means in this context; the Decision raises procedural barriers to the Unlawful Detainer process; the Rent Board created a further procedural barrier by not scheduling the hearing within thirty days; and there are factual errors in the Decision.

MSC: To deny the appeal but find no bad faith on the part of the landlord; and to remand the case to the Administrative Law Judge to make necessary Technical Corrections to the Decision. (Gruber/Murphy: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Pending Litigation Report prepared by Senior Administrative Law Judge Tim Lee.

B. A copy of the Decision in Vallejo St. Company v. Rent Board (Superior Court No. CPF-03-503161).

C. A letter to Board President Wasserman from Lora Traveler, President of the Parkmerced Residents' Organization, regarding an influx of students into housing at Parkmerced, and the resulting disruptions to the community.

D. Several articles from Beyond Chron, the San Francisco Examiner and the San Francisco Chronicle.

E. The office Monthly Workload Statistics for the month of October 2005.

VII. Director's Report

Executive Director Delene Wolf informed the Board that the annual allowable rent increase as of March 1, 2006 would be 1.7%.

IV. Remarks from the Public (cont.)

B. Malika Moyer told the Commissioners that a friend of his is currently trying to appeal the discontinuance of her Section 8 voucher.

VIII. Calendar Items

December 20th & 27th, 2005 - NO MEETINGS

January 3, 2005

6 appeal considerations

IX. Adjournment

President Wasserman adjourned the meeting at 7:10 p.m.



